



भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 40]
No. 40]

नई दिल्ली, शनिवार, अक्टूबर 6, 2001/आश्विन 14, 1923
NEW DELHI, SATURDAY, OCTOBER, 6, 2001/ASVINA 14, 1923

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह जगह संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (H) PART II—Section 3—Sub-Section (H)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(other than the Ministry of Defence)

गृह मंत्रालय
(जम्मू और कश्मीर कार्य विभाग)

नई दिल्ली, 24 सितम्बर, 2001

का.आ. 2636.—केन्द्रीय सरकार, विशेष विवाह अधि-
नियम, 1954 (1954 का 43) की धारा 3 की उपधारा
(2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत
सरकार के गृह मंत्रालय की अधिसूचना स.का.आ. 713,
तारीख 18 मार्च, 1960 और अधिसूचना स.का.आ. 1400,
तारीख 23 मई, 1960 को अधिकांत करते हुए, अगले
आदेशों तक,—

संयुक्त निदेशक, क्षेत्र प्रचार निदेशालय, सूचना और
प्रसारण मंत्रालय, जम्मू को, उसके अपने कर्तव्यों के अतिरिक्त,
जम्मू कश्मीर राज्य के जम्मू प्रांत के लिए (जिसे अन्तर्गत
जम्मू, कठुआ, डोडा, उधमपुर, पृष्ठ और राजौरी जिले सम्मि-
लित हैं) विवाह अधिकारी, और

आयकर अधिकारी, ए-वार्ड, श्रीनगर को, उसके अपने
कर्तव्यों के अतिरिक्त, जम्मू कश्मीर राज्य के शेष क्षेत्रों के
लिए विवाह अधिकारी, नियुक्त करती है।

[सं. 11013/13/2001-के. (डी.ओ.-1)]

मजरा कृपार सिंह, डेस्क अधिकारी

MINISTRY OF HOME AFFAIRS
(Department of Jammu and Kashmir Affairs)
New Delhi, the 24th September, 2001

S.O.2636.—In exercise of the powers conferred
by Sub-section (2) of Section 3 of the Special Marriage
Act, 1954 (No. 43 of 1954) and in supersession of
the notifications of the Government of India in the
Ministry of Home Affairs number S.O. 713, dated
the 18th March, 1960, and number S.O. 1400, dated
the 23rd May, 1960, the Central Government hereby
appoints until further orders,

Joint Director, Directorate of Field Publicity, Ministry of Information and Broadcasting, Jammu as Marriage Officer for the Jammu Province [comprising Districts of Jammu, Kathua, Doda, Udhampur, Poonch and Rajouri], of the State of Jammu and Kashmir, in addition to his/her own duties; and

Income Tax Officer, A-Ward, Srinagar as Marriage Officer for the remaining areas of the State of Jammu and Kashmir, in addition to his/her own duties.

[No.11013/13/2001-K(DO.1)]

SANJAY KUMAR SINGH, Desk Officer

विन मंत्रालय

(राजस्व विभाग)

केन्द्रीय प्रत्यक्ष कर बोर्ड

नई दिल्ली, 21 सितम्बर, 2001

(आयकर)

का.आ. 2637: सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार अधोलिखित संगठन को उनके नाम के सामने उल्लिखित अवधि, के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (2) के प्रयोजनार्थ संस्थान श्रेणी के अंतर्गत निम्नलिखित शर्तों के अधीन अनुमोदित करती है:—

- (1) अधिसूचित संस्थान अपने अनुसंधान कार्यक्रमों के लिए अलग-अलग लेखा बहियों का रख-रखाव करेगा,
- (2) अधिसूचित संस्थान प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग "टेक्नोलॉजी भवन" न्यू महरौली रोड, नई दिल्ली-110016 को प्रस्तुत करेगा,
- (3) अधिसूचित संस्थान केन्द्र सरकार की तरफ से नामोदिष्ट निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परीक्षित वार्षिक लेखों की एक प्रति तथा अपने अनुसंधान कार्यक्रमों के लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अंतर्गत छूट प्रदान की गई थी के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संस्था पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट), 10 मिडिलटन रो, पाँचवां तल, कलकत्ता 700071 (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग तथा

(ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगा।

क्र.सं. अनुमोदित संगठन का अवधि जिसके लिए अधिसूचना नाम प्रभावी है

दि मदर्स इंस्टीट्यूट आफ 1-4-2000 से 31-3-2002
रिसर्च, 16/602, ईस्ट
एंड अपार्टमेंट्स, मयूर
बिहार एक्सटेंशन,
दिल्ली-110096

टिप्पणी: अधिसूचित संस्थान को सलाह दी जाती है कि वे अनुमोदन के तवीनकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन कर। अनुमोदन के तवीनकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी।

[अधिसूचना सं.-306/2001/फा.सं. 203/34/2001-
आ.क.नि.-II]

डा. राजेन्द्र कुमार, अवसर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 21st September, 2001

(INCOME TAX)

S.O. 2637—It is hereby notified for general information that the organisations mentioned below have been approved by the Central Government for the period mentioned against their names, for the purpose of clause (ii) of sub-section (1) of section 35 of the Income tax Act, 1961, read with Rule 6 of the Income Tax Rules, 1962 under the category "Lastitution" subject to the following conditions :

- (i) The notified Institution shall maintain separate books of accounts for its research activities;
- (ii) The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, 'Technology Bhawan' New Mehrauli Road, New Delhi-110 016 for every financial year on or before 31st May of each year;
- (iii) The notified Institution shall submit, on behalf of the Central Government to (a) the Director General of Income-tax (Exemptions), 10 Middleton Row, 5th Floor,

Calcutta-700071; (b) The Secretary, Department of scientific & Industrial Research; and (c) The Commissioner of Income Tax/Director of Income Tax (Exemptions), having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income & Expenditure Account in respect of its research activities for which exemption was granted under sub-section (1) of section 35 of Income Tax Act, 1961 in addition to the return of Income Tax to the designated assessing officer.

S. No.	Name of the organisation approved	Period for which Notification is effective
1.	The Mother's Institute of Research, 16/601, East End Apartments, Mayur Vihar Extension, Delhi-110 096:	1-4-2000 to 31-3-2002

Notes.—The notified Institutions are advised to apply in triplicates and well in advance for renewal of the approval, to the Central Government through the Commissioner of Income Tax/Director of Income Tax (Exemptions) having jurisdiction. Three copies of application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 306/2001/F. No. 203/34/2001-ITA-II]

Dr. RAJENDRA KUMAR, Under Secy.

नई दिल्ली, 21 सितम्बर, 2001

(आयकर)

का.आ. 2638.—सामान्य जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार नीचे लिखे संगठन को उनके नाम के सामने उल्लिखित अधिधि के लिए आयकर नियमावली, 1962 के नियम 6 के साथ पठित आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ "संस्थान" श्रेणी के अन्तर्गत निम्नलिखित शर्तों के अधीन अनुमोदित करती है :—

- (1) अधिसूचित संस्थान अपने अनुसंधान कार्यकलापों के लिए असंग लेखा बहियों का रख-रखाव करेगी ;
- (2) अधिसूचित संस्थान प्रत्येक वित्तीय वर्ष के लिए अपनी वैज्ञानिक अनुसंधान गतिविधियों की वार्षिक रिटर्न प्रत्येक 31 मई को अथवा उससे पहले भविष्य वैज्ञानिक और औद्योगिक अनुसंधान विभाग "टेक्नोलाजी भवन" न्यू महारौली रोड, नई दिल्ली-110016 को प्रस्तुत करेगी ;

- (3) अधिसूचित संस्थान केन्द्र सरकार की तरफ से नामोदित निर्धारण अधिकारी को आयकर की विवरणी प्रस्तुत करने के अतिरिक्त अपने लेखा परिक्षित वार्षिक लेखों को एक प्रति तथा अपने अनुसंधान कार्यकलापों जिसके लिए आयकर अधिनियम, 1961 की धारा 35 की उपधारा (1) के अन्तर्गत छूट प्रदान की गई थी के संबंध में आय एवं व्यय खाते की लेखा परीक्षा की भी एक प्रति संस्थान पर अधिकार क्षेत्र वाले (क) आयकर महानिदेशक (छूट), 10, मिडिलटन री. पांचवां तल, कलकत्ता-700071 (ख) सचिव, वैज्ञानिक एवं औद्योगिक अनुसंधान विभाग तथा (ग) आयकर आयुक्त/आयकर निदेशक (छूट) को प्रत्येक वर्ष 31 अक्टूबर को अथवा उससे पहले प्रस्तुत करेगी ।

क्र०सं. अनुमोदित संगठन का नाम अधिधि जिसके लिए अधिसूचना प्रभावी है ।

1. आई.एन.वाई.एम.मेडिकल रिसर्च सेंटर, आई.एन.वाई.एम. कॉम्प्लेक्स, जिन्वल नगर, टुमकुर रोड, बंगलौर-560073

टिप्पणी : अधिसूचित संस्थान को सलाह दी जाती है कि वे अनुमोदन के नवीकरण के लिए तीन प्रतियों में और पहले ही अधिकार क्षेत्र वाले आयकर आयुक्त/आयकर निदेशक (छूट) के माध्यम से केन्द्र सरकार को आवेदन करें । अनुमोदन के नवीकरण के लिए आवेदन पत्र की तीन प्रतियां सचिव, वैज्ञानिक और औद्योगिक अनुसंधान विभाग को सीधे भेजी जाएंगी ।

[अधिसूचना सं. 307/2001/फा.सं. 203/35/2001-आयकर नि.-II]

डा. राजेन्द्र कुमार, अवर सचिव

New Delhi, the 21st September, 2001

(INCOME TAX)

S.O. 2638.—It is hereby notified for general information that the organisations mentioned below have been approved by the Central Government for the period mentioned against their names, for the purpose of clause (ii) of sub-section (1) of section 35 of the Income Tax Act, 1961, read with Rule 6 of the Income Tax Rules, 1962 under the category "Institution" subject to the following conditions :

- (i) The notified Institution shall maintain separate books of accounts for its research activities;

(ii) The notified Institution shall furnish the Annual Return of its scientific research activities to the Secretary, Department of Scientific & Industrial Research, 'Technology Bhawan', New Mehrauli Road, New Delhi-110 016 for every financial year, on or before 31st May of each year;

(iii) The notified Institution shall submit, on behalf of the Central Government, to (a) the Director General of Income Tax (Exemptions), 10 Middleton Row, 5th Floor, Calcutta—700071, (b) The Secretary, Department of Scientific & Industrial Research and (c) The Commissioner of Income Tax/Director of Income Tax (Exemptions), having jurisdiction over the organisation, on or before the 31st October each year, a copy of its audited Annual Accounts and also a copy of audited Income & Expenditure Account in respect of its research activities for which exemption was granted under sub-section (1) of section 35 of Income Tax Act, 1961 in addition to the return of Income Tax to the designated assessing officer.

S. No.	Name of the organisation approved	Period for which Notification is effective
1.	INYS Medical Research Centre, INYS Complex, Jindal Nagar, Tumkur Road, Bangalore 560073.	1-4-2000 to 31-3-2003

Notes.—The notified Institutions are advised to apply in triplicates and well in advance for renewal of the approval, to the Central Government through the Commissioner of Income Tax/Director of Income Tax (Exemptions) having jurisdiction. Three copies of application for renewal of approval shall also be sent directly to the Secretary, Department of Scientific and Industrial Research.

[Notification No. 307/2001/F. No. 203/35/2001—ITA-II]

Dr. RAJENDRA KUMAR, Under Secy.

नई दिल्ली, 21 सितम्बर, 2001

का.आ. 2639: सर्वव्यापारण की जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार आयकर नियमावली, 1962 के नियम 2ड के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23छ) के प्रयोजनार्थ कर निर्धारण वर्ष 2002-2003, 2003-2004 और 2004-2005 के लिए नीचे पैरा 3 में उल्लिखित उद्यम को अनुमोदित करती है।

2. यह अनुमोदन इस शर्त के अधीन है कि :

(1) उद्यम औद्योगिक उपक्रम आयकर नियमावली, 1962 के नियम 2ड के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23छ) के उपबंधों के अनुरूप होगा और उनका अनुपालन करेगा ;

(2) केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि उद्यम औद्योगिक उपक्रम :

(क) अवसंरचनात्मक सुविधा को जारी रखना बंद कर देता है ; और

(ख) खाताबहियों का रख-रखाव नहीं करता है तथा आयकर नियमावली, 1962 के नियम 2ड के उप नियम (7) द्वारा यथा अपेक्षित किसी लेखाकार द्वारा ऐसे खातों की लेखा परीक्षा नहीं कराता है ; अथवा

(ग) आयकर नियमावली, 1962 के नियम 2ड के उपनियम (7) द्वारा यथा अपेक्षित लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करता है।

3. अनुमोदित उद्यम है—मैसर्स न्यूक्लियर कार्पोरेशन ऑफ इंडिया लि., 424-425, वर्ल्ड ट्रेड सेंटर, बाराखम्बा लेन, कनाट प्लेस, नई दिल्ली-110001 पावर जेनरेशन प्रोजेक्ट अर्थात् तारापुर एटोमिक पावर प्रोजेक्ट, यूनिट्स 3 और 4, (1000 मैगावाट), महाराष्ट्र, कैंग एटोमिक पावर प्रोजेक्ट, यूनिट 1 तथा 2 (440 मैगावाट) : कनाटक और राजस्थान एटोमिक पावर प्रोजेक्ट यूनिट्स 3 और 4 (440 मैगावाट) राजस्थान (फा.सं. 205/13/98/आयकर नि.-II खण्ड-1)।

[अधिसूचना संख्या 300/2001/फा.सं. 205/13/98—आयकर नि.-II खंड-1]

डा. राजेन्द्र कुमार, अधर सचिव

New Delhi, the 21st September, 2001

S O 2639.—It is notified for general information that enterprise, listed at para (3) below has been approved by the Central Government for the purpose of section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962, for the assessment years 2002-2003, 2003-2004 and 2004-2005.

2 The approval is subject to the condition that—

(i) the enterprise/industrial undertaking will conform to and comply with the provisions of section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962;

(ii) the Central Government shall withdraw this approval if the enterprise/industrial undertaking:

- (a) ceases to carry on infrastructure facility; or
- (b) fails to maintain books of account and get such accounts audited by an accountant as required by sub-rule (7) of rule 2E of the Income-tax Rules, 1962; or
- (c) fails to furnish the audit report as required by sub-rule (7) of rule 2E of the Income-tax Rules, 1962.

3 The enterprise approved is—Power Generation Projects namely, Tarapur Atomic Power Project, Units 3 & 4—(1000 MW) Maharashtra; Kaiga Atomic Power Project, Units 1&2—(440 MW); Karnataka and Rajasthan Atomic Power Project, Units 3&4 (440 MW), Rajasthan by M/s Nuclear Corporation of India Ltd, 424-425, World Trade Centre, Barakhamba Lane, Connaught Place, New Delhi-110001, (F.No. 205/13/98/ITA.II—Pt.I)

[Notification No. 300/2001/F.No. 205/13/98-ITA-II Pt.I]

DR. RAJENDRA KUMAR, Under Secy.

शुद्धि पत्र

नई दिल्ली, 21 सितम्बर, 2001

का.आ. 2640.—आयकर अधिनियम, 1961 की धारा 10 के खंड (23छ) में प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा अधिसूचना सं. 57/2001 दिनांक 14-3-2001 द्वारा अनुमोदित उद्यम के नाम में निम्नलिखित संशोधन करती है।

2. अधिसूचना के पैरा 3 में, अनुमोदित उद्यम को संशोधित करके इस प्रकार पढ़ा जाए :—

“मैसर्स बंगाल पियरलेस हाउसिंग डेवलपमेंट कम्पनी लि., कृष्णा बिल्डिंग, 224, ए.जे.सी. बॉस रोड, दूसरा तल, कलकत्ता-700017”

[अधिसूचना सं. 301/2001/फा.सं. 205/23/2000—आ.का.नि. II]

डा. राजेन्द्र कुमार, अवर सचिव

CORRIGENDUM

New Delhi, the 21st September, 2001

S.O. 2640.—In exercise of the powers conferred in clause 23(G) of section 10 of the Income tax Act, 1961, the Central Government hereby makes the following correction in the name of the enterprise approved vide Notification No. 57/2001 dated 14-3-2001.

2. In para 3 of the Notification, the enterprise approved shall be corrected to read as—

“M/s Bengal Pearlless Housing Development Company Ltd., Krishna Building, 224, A.J.C Bose Road, 2nd Floor, Calcutta-700017.”

[Notification No.301/2001/F.No. 205/23/2000-ITA-II]
Dr. RAJENDRA KUMAR, Under Secy.

नई दिल्ली, 21 सितम्बर, 2001

का.आ. 2641.—सर्वसाधारण की जानकारी के लिए यह अधिसूचित किया जाता है कि केन्द्र सरकार आयकर नियमावली, 1962 के नियम 2इ के साथ पठित आयकर अधिनियम, 1961 की धारा 10 (23-छ) के प्रयोजनार्थ कर निर्धारण वर्ष 2002-2003, 2003-2004 और 2004-2005 के लिए नीचे पैरा 3 में उल्लिखित उद्यम को अनुमोदित करती है।

2. यह अनुमोदन इस शर्त के अधीन है कि :

(1) उद्यम औद्योगिक उपक्रम आयकर नियमावली, 1962 के नियम 2इ के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23-छ) के उपबंधों के अनुरूप होगा और उनका अनुपालन करेगा ;

(2) केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि उद्यम औद्योगिक उपक्रम :

(क) अवसंरचनात्मक सुविधा को जारी रखना बंद कर देता है ; और

(ख) खाता बहियों का रख-रखाव नहीं करता है तथा आयकर नियमावली, 1962 के नियम 2इ के उप नियम (7) द्वारा यथा-अपेक्षित किसी लेखाकार द्वारा ऐसे खातों की लेखा परीक्षा नहीं कराता है ; और

(ग) आयकर नियमावली, 1962 के नियम 2इ के उपनियम (7) द्वारा यथा अपेक्षित लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करता है।

3. अनुमोदित उद्यम है—मैसर्स एयरसेल लिमिटेड, 19, केथेड्रल गार्डन रोड, ननगमबाक्कम् चैम्पई-600034 को तमिलनाडु सर्किल में सैल्यूलर मोबाईल टेलिफोन सर्विस।

[अधिसूचना सं. 302/2001/फा.सं. 205/178/99—आयकर-नि.-II]

डा. राजेन्द्र कुमार, अवर सचिव

New Delhi, the 21st September, 2001

S.O. 2641.—It is notified for general information that enterprise, listed at para (3) below has been approved by the Central Government for the purpose of section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962, for the assessment years 2002-2003, 2003-2004 and 2004-2005.

2. The approval is subject to the condition that—

(i) the enterprise/industrial undertaking will conform to and comply with the provisions of section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962;

(ii) the Central Government shall withdraw this approval if the enterprise/industrial undertaking:

- (a) ceases to carry on infrastructure facility; or
- (b) fails to maintain books of account and get such accounts audited by an accountant as required by sub-rule (7) of rule 2E of the Income-tax Rules, 1962; or
- (c) fails to furnish the audit report as required by sub-rule (7) of rule 2E of the Income-tax Rules, 1962.

3. The enterprise approved is—Cellular Mobile Telephone Service in Tamilnadu Circle of M/s Aircel Limited, 19, Cathedral Garden Road, Nungambakkam Chennai-600034.

[Notification No. 302/2001/E. No. 205/178/99-ITA-II]
Dr. RAJENDRA KUMAR, Under Secy.

नई दिल्ली, 21 सितम्बर, 2001

का.आ. 2642.—सर्वसाधारण की जानकारी के लिये यह अधिसूचित किया जाता है कि केन्द्र सरकार आयकर नियमावली, 1962 के नियम 2E के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23G) के प्रयोजनार्थ कर निर्धारण वर्ष 2002-2003, 2003-2004 और 2004-2005 के लिये नीचे पैरा 3 में उल्लिखित उद्यम को अनुमोदित करती है।

2. यह अनुमोदन इस शर्त के अधीन है कि :

- (1) उद्यम/औद्योगिक उपक्रम आयकर नियमावली, 1962 के नियम 2E के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23G) के उपबंधों के अनुरूप होगा और उनका अनुपालन करेगा ;
- (2) केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि उद्यम/औद्योगिक उपक्रम :—
 - (क) अवसंरचनात्मक सुविधा को जारी रखन बंद कर देता है; और
 - (ख) खाता बहियों का रख-रखाव नहीं करता है तथा आयकर नियमावली, 1962 के नियम 2E के उप नियम (7) द्वारा यथा अपेक्षित किसी लेखाकार द्वारा ऐसे खातों की लेखा परीक्षा नहीं कराता है ;
 - (ग) आयकर नियमावली, 1962 के नियम 2E के उप नियम (7) द्वारा यथा अपेक्षित लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करता है।

3. अनुमोदित उद्यम निम्नानुसार है :—महाराष्ट्र राज्य विद्युत् बोर्ड, "प्रकाशगढ़" बान्द्रा (पूर्व) मुम्बई-400051 द्वारा खपेरखेडा, नागपुर में प्रत्येक यूनिट द्वारा 210 मेगावाट विद्युत् उत्पन्न करने हेतु महाराष्ट्र राज्य विद्युत् बोर्ड की खपेरखेडा ताप विद्युत् परियोजना (यूनिट 3 एवं 4) में विद्युत् उत्पादन परियोजना

[अधिसूचना सं. 303/2001(फा.सं. 205/2/98-आयकर नि.-II खंड II)]

डा. राजेन्द्र कुमार, अधर सचिव

New Delhi, the 21st September, 2001

S.O. 2642.—It is notified for general information that enterprise, listed at para (3) below has been approved by the Central Government for the purpose of section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962, for the assessment years 2002-2003, 2003-2004 and 2004-2005.

2. The approval is subject to the condition that—

(i) the enterprise/industrial undertaking will conform to and comply with the provisions of section 10(23G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962;

(ii) the Central Government shall withdraw this approval if the enterprise/industrial undertaking:—

- (a) ceases to carry on infrastructure facility; or
- (b) fails to maintain books of account and get such accounts audited by an accountant as required by sub-rule (7) of rule 2E of the Income-tax Rules, 1962; or
- (c) fails to furnish the audit report as required by sub-rule (7) of rule 2E of the Income-tax Rules, 1962.

3. The enterprise approved is—Power Generation Project at Khaperkheda Thermal Power Project (Units 3&4) of Maharashtra State Electricity Board for generation of 210MW power by each Unit at Khaperkheda, Nagpur by M/s Maharashtra State Electricity Board, "Prakashgad" Bandra (East) Mumbai-400051

[Notification No. 303/2001/E.No. 205/2/98-ITA-II Vol.II]

Dr. RAJENDRA KUMAR, Under Secy.

नई दिल्ली, 21 सितम्बर, 2001

का.आ. 2643.—सर्वसाधारण की जानकारी के लिये यह अधिसूचित किया जाता है कि केन्द्र सरकार आयकर नियमावली, 1962 के नियम 2E के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23G) के प्रयोजनार्थ

कर निर्धारण वर्ष 2002-2003, 2003-2004 और 2004-2005 के लिये नीचे पैरा 3 में उल्लिखित उद्यम को अनुमोदित करती है।

2. यह अनुमोदन इस शर्त के अधीन है कि :—

(1) उद्यम/औद्योगिक उपक्रम आयकर नियमावली, 1962 के नियम 28 के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23छ) के उपबंधों के अनुरूप होगा और उनका अनुपालन करेगा;

(2) केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि उद्यम/औद्योगिक उपक्रम :—

(क) अवसंरचनात्मक सुविधा को जारी रखना बंद कर देता है; और

(ख) खाता बहियों का रख-रखाव नहीं करता है तथा आयकर नियमावली, 1962 के नियम 28 के उप नियम (7) द्वारा यथा अपेक्षित किसी लेखाकार द्वारा ऐसे खातों की लेखा परीक्षा नहीं कराता है;

(ग) आयकर नियमावली, 1962 के नियम 28 के उपनियम (7) द्वारा यथा अपेक्षित लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करता है।

3. अनुमोदित उद्यम है—मैसर्स एसकोटेल मोबाईल टेलिकम्युनिकेशन लि., ए-36, मोहन को-ऑपरेटिव इंडस्ट्रियल एस्टेट, मयूरा रोड, नई दिल्ली-110044 द्वारा हरियाणा यू. पी. (पश्चिम) राज्य और केरल टेलिकोम सॉल्यूशंस, के लिये डी.ओ.टी. द्वारा अनुमोदित लाइसेंस के कार्यान्वयन हेतु दूरसंचार सेवा (मयूरा) की परियोजना।

[अधिसूचना सं. 304/2001/फा.सं. 205/51/98-आ.क. नि.-II खण्ड-I]

डा. राजेन्द्र कुमार, अवर सचिव

New Delhi, the 21st September, 2001.

S. O. 2643.—It is notified for general information that enterprise, listed at para (3) below has been approved by the Central Government for the purpose of section 10 (23 G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962, for the assessment years 2002-2003, 2003-2004 and 2004-2005.

2. The approval is subject to the condition that —

(i) the enterprise industrial undertaking will conform to and comply with the provisions of section 10 (23 G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962;

(ii) the Central Government shall withdraw this approval if the enterprise industrial undertakings :—

(a) ceases to carry on infrastructure facility; or

(b) fails to maintain books of account and get such accounts audited by an accountant as required by sub-rule (7) of rule 2E of the Income-tax Rules, 1962 ; or

(c) fails to furnish the audit report as required by sub-rule (7) of rule 2E of the Income-tax Rules, 1962.

3. The enterprise approved is project of Telecommunication service (Cellular) in executing the license granted by the DOT for the State of Haryana, UP (West) and Kerala Telecom Circles by M/s. Escotel Mobile Communications Ltd., A-36, Mohan Co-operative Industrial Estate, Mathura Road, New Delhi-110044.

[Notification No. 304/2001/F. No. 205/51/98-ITA-I Vol. I]

Dr. RAJENDRA KUMAR, Under Secy.

नई दिल्ली, 21 सितम्बर, 2001

आ.आ. 2644.—सर्वसाधारण की जानकारी के लिये यह अधिसूचित किया जाता है कि केन्द्र सरकार आयकर नियमावली, 1962 के नियम 28 के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23छ) के प्रयोजनार्थ कर निर्धारण वर्ष 2002-2003, 2003-2004 और 2004-2005 के लिये नीचे पैरा 3 में उल्लिखित उद्यम को अनुमोदित करती है।

2. यह अनुमोदन इस शर्त के अधीन है कि :—

(1) उद्यम/औद्योगिक उपक्रम आयकर नियमावली, 1962 के नियम 28 के साथ पठित आयकर अधिनियम, 1961 की धारा 10(23छ) के उपबंधों के अनुरूप होगा और उनका अनुपालन करेगा;

(2) केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि उद्यम/औद्योगिक उपक्रम :—

(क) अवसंरचनात्मक सुविधा को जारी रखना बंद कर देता है, और

(ख) खाता बहियों का रख-रखाव नहीं करता है तथा आयकर नियमावली, 1962 के नियम 28 के उप नियम (7) द्वारा यथा अपेक्षित किसी लेखाकार द्वारा ऐसे खातों की लेखा परीक्षा नहीं कराता है,

(ग) आयकर नियमावली, 1962 के नियम 23 के उपनियम (7) द्वारा यथा अपेक्षित लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करता है।

3. अनुमोदित उद्यम है—मैसर्स भारती टेलीनेट लि. कुतुब एम्बियंस (कुतुब मिनार के पास) एच-5/12, मेहरोली रोड, नई दिल्ली-110030 की हिमाचल प्रदेश के राज्य में मेल्युलर मोबाईल टेलीफोन सर्विस और मध्य प्रदेश के राज्य में बेसिक टेलीफोन सर्विस।

[अधिसूचना सं. 305/2001/फा.सं. 205/4/98-आ.क नि.-II खंड-1]

डा. राजेन्द्र कुमार, अवर सचिव

New Delhi, the 21st September, 2001

S. O. 2644.—It is notified for general information that enterprise, listed at para (3) below has been approved by the Central Government for the purpose of section 10 (23 G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962, for the assessment years 2002-2003, 2003-2004 and 2004-2005.

2. The approval is subject to the condition that —

(i) the enterprise industrial undertaking will conform to and comply with the provisions of section 10 (23 G) of the Income-tax Act, 1961, read with rule 2E of the Income-tax Rules, 1962 ;

(ii) the Central Government shall withdraw this approval if the enterprise industrial undertakings:—

(a) ceases to carry on infrastructure facility; or

(b) fails to maintain books of account and get such accounts audited by an accountant as required by sub-rule (7) of rule 2E of the Income-tax Rules, 1962; or

(c) fails to furnish the audit report as required by sub-rule (7) of rule 2E of the Income-tax Rules, 1962, or

3. The enterprise approved is — Basic Telephone Service in the State of Madhya Pradesh & Cellular Mobile Telephone Service in the State of Himachal Pradesh of M/s. Bharati Telenet Ltd., Qutab Ambience (Near Qutab Minar), H-5/12, Mehrauli Road, New Delhi-110030.

[Notification No. 305/2001 /F. No. 205/4/98—ITA-II, Vol. I]

Dr. RAJENDRA KUMAR, Under Secy.

कोयला मंत्रालय

शुद्धि-पत्र

नई दिल्ली, 20 सितम्बर, 2001

का.आ. 2645.—भारत के राजपत्र तारीख 21 अप्रैल, 2001 के भाग-II, खंड-3, उपखंड (ii) में पृष्ठ क्रमांक 1743 एवं 1744 पर प्रकाशित भारत सरकार, कोयला मंत्रालय की अधिसूचना संख्यांक का.आ. 805 तारीख 11 अप्रैल, 2001 में

पृष्ठ क्रमांक 1743

प्रथम अनुच्छेद के प्रथम पंक्ति में "का.आ." के बाद '305' के स्थान पर '805' पढ़ें।

पृष्ठ क्रमांक 1744

अनुसूची में ग्राम का नाम के कालम में क्रम सं. 9 पर 'नौरहिया' के स्थान के स्थान पर 'नौदिया' पढ़ें।

सीमा वर्णन

क,ख रेखा—क ख रेखा के प्रथम पंक्ति में "मुहेर" के बाद और 'नया' के पहले 'नौरहिया' के स्थान पर 'नौदिया' पढ़ें।

[फा.सं. 43015/17/2000-पी.आर.आई. डब्ल्यू]

संजय बहादुर, उप सचिव

नई दिल्ली, 25 सितम्बर, 2001

का.आ. 2646.—केन्द्रीय सरकार को यह प्रतीत होता है कि इसमें उपाबद्ध अनुसूची में उल्लिखित भूमि में कोयला अभिप्राप्त किये जाने की संभावना है ;

अतः अब, केन्द्रीय सरकार कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसके इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुये, उस क्षेत्र में कोयले का पूर्वेक्षण करने के अपने आशय की सूचना देती है ;

इस अधिसूचना के अन्तर्गत आने वाले क्षेत्र के रेखांक संख्या एस ई सी एल/बी एस पी/जी एस/पी एल जी/भूमि 248 तारीख 19 अप्रैल, 2001 का निरीक्षण कलैक्टर रायगढ़ (छत्तीसगढ़) के कार्यालय में या कोयला नियंत्रक 1, काउंसिल हाउस स्ट्रीट, कलकत्ता-70001 के कार्यालय में या साउथ ईस्टर्न कोलफील्ड्स लिमिटेड के कार्यालय (राजस्व अनुभाग) सीपत रोड, बिलासपुर-495006 (छत्तीसगढ़) किया जा सकता है।

इस अधिसूचना के अन्तर्गत आने वाली भूमि में हितवद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, चाटों और अन्य दस्तावेजों को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर भारसाधक अधिकारी/विभागाध्यक्ष (राजस्व) साउथ ईस्टर्न कोलफील्ड्स लिमिटेड, सीपत रोड, बिलासपुर (छत्तीसगढ़) को भर्जेंगे।

अनुसूची
छाल खंड (विस्तार)
रायगढ़ क्षेत्र
जिला रायगढ़ (छत्तीसगढ़)

रेखांक संख्या एस ई सी एल/बी एस पी/जी एम (पी एन जी)/भूमि/248 तारीख 19 अप्रैल, 2001 (पूर्वक्षण के लिये अधिसूचित भूमि दर्शाते हुए)

क्रम संख्या	ग्राम का नाम	हत्का नंबर	तहसील जिला	क्षेत्र हैक्टेयर में	टिप्पणियां
(1)	बंधापाली	30	धरमजयगढ़ रायगढ़	8.550	भाग
(2)	नवापारा	31	धरमजयगढ़ रायगढ़	3.299	भाग
(3)	खेड़ापाली	31	धरमजयगढ़ रायगढ़	1.750	भाग
योग		13.599 हैक्टेयर (लगभग) या 33.60 एकड़ (लगभग)			

सीमा वर्णन :—

- क-क1-ख रेखा ग्राम खेड़ापाली और बंधापाली की सम्मिलित सीमा के "क" बिन्दु से आरंभ होती है और ग्राम बंधापाली से होकर जाती है और बिन्दु "ख" पर मिलती है।
- ख-ग रेखा ग्राम बंधापाली, नवापारा से होकर जाती है और बिन्दु "ग" पर मिलती है।
- ग-ग1-घ रेखा ग्राम नवापारा से होते हुये तत्पश्चात् भागतः ग्राम नवापारा, पुसलदा, बंधापाली-पुसलदा की सम्मिलित सीमा के साथ होकर जाती है और बिन्दु "घ" पर मिलती है।
- घ-ड-क रेखा ग्राम बंधापाली, खेड़ापाली से होकर जाती है और आरंभिक बिन्दु "क" पर मिलती है।

[फा.सं. 43015/12/2001-पी आर आई डब्ल्यू]

संजय बहादुर, उप सचिव

New Delhi, the 25th September, 2001

S. O. 2646.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act) the Central Government hereby gives notice of its intention to prospect for coal therein.

The plan bearing No. : SECL/BSP/GM (FLG)/LAND/248 dated 19th April, 2001 of the area covered by this notification can be inspected in the Office of the Collector, Raigarh (Chhattisgarh) or in the Office of the Coal Controller, 1, Council House, Street, Calcutta-700001 or in the Office of the South Eastern Coalfields Limited (Revenue Section), Seepat Road, Bilaspur-495 006 (Chhattisgarh).

All persons interested in the land covered by this notification shall deliver all maps, charts and other documents referred to in sub-section (7) of section 13 of the said Act to the Officer-in-Charge/Head of 2948 GI/2001—2

the Department (Revenue), South Eastern Coalfields Limited (Revenue Section), Seepat Road, Bilaspur-495006 (Chhattisgarh), within ninety days from the date of publication of this notification in the Official Gazette,

SCHEDULE

Chhal Block (Extension)

Raigarh Area

District—Raigarh (Chhattisgarh)

Plan No. SECL/BSP/GM (Plg)/Land/248 Dated 19th April, 2001 (Showing the land notified for prospecting)

Sl. No.	Name of Village	Halka No.	Tehsil	District	Area in hectares	Remarks
1.	Bandhapali	30	Dharamjaygarh	Raigarh	8.550	Part
2.	Nawapara	31	Dharamjaygarh	Raigarh	3.299	Part
3.	Khedapali	31	Dharamjaygarh	Raigarh	1.750	Part
TOTAL : 13.599 Hectare (Approximately) or 33.60 Acres (Approximately)						

Boundary Description:—

- A-A1-B Line starts from point 'A' on the common boundary of villages Khedapali and Bandhapali and passes through village Bandhapali and meets at point 'B'.
- B-C Line passes through villages Bandhapali, Nawapara and meets at point 'C'.
- C-C1-D Line passes through Nawapara Village then, partly along the common boundary of villages Nawapara, Pusulda, Bandhapali-Pusulda and meets at point 'D'.
- D-E-A Line passes through villages Bandhapali, Khedapali and meets at the starting point 'A'.

[No. 43015/12/2001-PRIW]

SANJAY BAHADUR, Deputy Secy.

वस्त्र मंत्रालय

नई दिल्ली, 28 सितम्बर, 2001

फा.आ. 2647.—केन्द्रीय रेशम बोर्ड अधिनियम, 1948 (1948 का 61) की धारा 4 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधिनियम के प्रावधानों के अनुसार इस अधिसूचना की तिथि से तीन वर्ष की अवधि के लिए केन्द्रीय रेशम बोर्ड के सदस्यों के रूप में सेवाएं प्रदान करने के लिए, भारत सरकार द्वारा निम्नलिखित व्यक्तियों के नामांकन को अधिसूचित किया जाता है।

- | | |
|--|---|
| 1. श्री के. राजेन्द्रन नायर,
विकास आयुक्त, (हथकरघा),
वस्त्र मंत्रालय, उद्योग भवन, नयी दिल्ली | इस अधिनियम की धारा 4(3)(ख) के तहत केन्द्र सरकार द्वारा नामित। |
| 2. श्री आर. सुरेश,
सचिव, बाणिज्य एवं उद्योग विभाग,
कर्नाटक सरकार, बंगलौर | इस अधिनियम की धारा 4(3)(घ) के तहत केन्द्र सरकार द्वारा नामित। |
| 3. श्री बी. उमेश,
निदेशक, रेशम उत्पादन विकास आयुक्त एवं रेशम उत्पादन,
कर्नाटक सरकार, बंगलौर | |
| 4. श्री महादेवप्पा,
संख्या 126-के/(1127), 19 ए. मेन रोड, 14 वां फ़ास, प्रथम के ब्लॉक,
राजाजी नगर, बंगलौर-560 011 | |

- | | |
|---|---|
| <p>5. श्रीमती जयन्ती,
सचिव, तमिलनाडु सरकार,
हथकरघा, हस्तशिल्प, वस्त्र व खादी विभाग,
सचिवालय, चैन्नई</p> <p>6. श्री सुभेन्धु चौधरी, एम.एल.ए.
ग्राम-जोत, डाकघर-आरापुर, जिला मालदा, पश्चिमी बंगाल-732 143</p> <p>7. श्री एस. के. थाड़े,
निदेशक, रेशम उत्पादन, पश्चिम बंगाल सरकार, कोलकाता ।</p> <p>8. श्रीमती पारुल देबी दास,
आयुक्त व सचिव, हथकरघा वस्त्र व रेशम उत्पादन विभाग, असम</p> <p>9. श्री अजर हस्सन,
निदेशक, हथकरघा व रेशम उत्पादन, बिहार सरकार पटना ।</p> <p>10. श्री एस. एम. एफ. बुखारी,
आयुक्त, कुटीर एवं ग्रामीण उद्योग, गुजरात सरकार, गांधीनगर</p> <p>11. श्री स्वदीप सिंह,
आयुक्त, रेशम उत्पादन, मध्य प्रदेश सरकार, भोपाल ।</p> <p>12. डॉ. ए. आर. त्रिग,
निदेशक, रेशम उत्पादन विकास विभाग, जम्मू व कश्मीर सरकार, श्रीनगर ।</p> <p>13. सचिव, छत्तीसगढ़ सरकार,
ग्रामीण उद्योग विभाग</p> <p>14. निदेशक, रेशम उत्पादन, उत्तरांचल सरकार</p> <p>15. सचिव, झारखण्ड प्रदेश सरकार, उद्योग विभाग</p> | <p>इस अधिनियम की धारा 4(3)(इ) के तहत केन्द्र सरकार द्वारा नामित ।</p> <p>इस अधिनियम की धारा 4(3)(च) के तहत केन्द्र सरकार द्वारा नामित ।</p> <p>इस अधिनियम की धारा 4(3)(छ) के तहत केन्द्र सरकार द्वारा नामित ।</p> <p>इस अधिनियम की धारा 4(3)(ज) के तहत केन्द्र सरकार द्वारा नामित ।</p> <p>इस अधिनियम की धारा 4(3)(झ) के तहत केन्द्र सरकार द्वारा नामित ।</p> |
|---|---|

[मिसिल सं. 25012/56/99-रेशम]

टी. नन्दकुमार, संयुक्त सचिव

MINISTRY OF TEXTILES

New Delhi, the 28th September, 2001

S.O. 2647.—In exercise of Powers conferred by Sub-section (3) of Section 4 of the Central Silk Board Act, 1948 (61 of 1948), the Central Government hereby notices the nomination of the following persons to serve as members of the Central Silk Board for a period of three years from the date of this notification subject to the provisions of the said Act.

- | | | |
|----|---|---|
| 1. | Shri K. Rajendran Nair,
DC (Handlooms), Ministry of Textiles,
New Delhi. | Nominated by the Central Government
under Section (4) (3)(b) of the Act. |
| 2. | Shri R. Suresh,
Secretary, Commerce and Industries Deptt. Govt.
of Karnataka, Bangalore, | Nominated by the Central Government
under Section 4(3) (d) of the Act. |
| 3. | Shri V. Umesh
Commissioner of Sericulture, Development and
Director of Sericulture, Govt. of Karnataka,
Bangalore, | |
| 4. | Shri Mahadevappa,
No. 126-K (1127) 19th A Main Road,
14th Cross 1st "K" Block,
Rajajinagar Bangalore-560011 | |

-
- | | | |
|-----|---|---|
| 5. | Smt. Jayanthi,
Secretary to Government of Tamil Nadu,
Handlooms Handcrafts Textiles and Khadi
Deptt. Secretariat, Chennai, | Nominated by the Central Government
under Section 4(3) (e) of the Act. |
| 6. | Shri Subhendu Choudhury, MLA,
Village-Jote, P. O. Arapur,
Distt. Malda,
West Bengal. 732143 | Nominated by the Central Government
under Section 4(3) (f) of the Act. |
| 7. | Shri S.K. Thade,
Director, Sericulture, Govt. of West Bengal,
Kolkata. | |
| 8. | Smt. Parul Debi Das,
Commissioner and Secretary Handloom Textile
and Sericulture Deptt. Assam | Nominated by the Central Government
under Section 4(3) (g) of the Act |
| 9. | Shri Anjar Hassan,
Director, Handloom and Sericulture, Govt. of Bihar, Patna. | |
| 10. | Shri S.M.F. Bukhari,
Commissioner, Cottage and Rural Industries,
Govt. of Gujarat, Gandhi Nagar. | |
| 11. | Shri Swadeep Singh,
Commissioner, Sericulture, Govt. of Madhya Pradesh,
Bhopal. | |
| 12. | Dr. A.R. Trag,
Director, Sericulture Development Department,
Govt. of Jammu & Kashmir, Srinagar. | Nominated by the Central Government
under Section 4(3) (h) of the Act. |
| 13. | The Secretary to Govt. of Chattisgarh,
Rural Industries Deptt. | Nominated by the Central Government
under Section 4(3)(i) of the Act. |
| 14. | Director of Sericulture, Govt. of Uttranchal. | |
| 15. | The Secretary to Govt. of Arunachal Pradesh,
Deptt. of Industries. | |
-

नई दिल्ली, 28 सितम्बर, 2001

New Delhi, the 28th September, 2001

का.आ. 2648.—वस्त्र समिति अधिनियम, 1963 (1963 का 41) के खंड 5ख द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तथा भारत के राजपत्र के भाग-2, खंड-3, उपखंड (2) में दिनांक 9 जुलाई, 1999 को प्रकाशित वस्त्र मंत्रालय की अधिसूचना का.आ. 2003 के स्थान पर, केन्द्र सरकार एतद्वारा श्री पी. के. मल्होत्रा, संयुक्त सचिव और विधि सलाहकार, विधि न्याय और कंपनी मामले मंत्रालय, शाखा सचिवालय, मुम्बई (आयकर भवन सीध, न्यू मरीन लाइंस, मुम्बई-400 020) में कानूनी मामले विभाग वाली एक सदस्यीय न्यायाधिकरण गठित करती है।

2. श्री पी. के. मल्होत्रा, कानूनी मामले विभाग विधि, न्याय और कंपनी मामले मंत्रालय के संयुक्त सचिव और कानूनी सलाहकार के रूप में अपने कर्तव्यों और कार्यों के अतिरिक्त उक्त अधिनियम द्वारा अथवा उसके अन्तर्गत न्यायाधिकरण को प्रदत्त अथवा दिये गये कार्यों की निर्वाह तथा शक्तियों का प्रयोग करेंगे।

3. यह अधिसूचना सरकारी राजपत्र में अपनी प्रकाशन की तिथि से लागू होगी।

[सं. 12020/28/96-ए. एंड एम एम टी (टीसी)]

वाई. पी. सिंह, निदेशक

S.O. 2648.—In exercise of the powers conferred by Section 5B of the Textiles Committee Act, 1963 (41 of 1963) and in suppression of the Ministry of Textiles Notification S.O. 2003 dated the 9th July, 1999 published in the Gazette of India Part II, Section 3, Sub-Section (ii), the Central Government hereby constitutes the one person Tribunal comprising Shri P.K. Molhotra Joint Secretary and Legal Advisor, in the Ministry of Law, Justice and Company Affairs, Department of Legal Affairs at Branch Secretariat Mumbai (Aayakar Bhavan Annex, New Marine Lines, Mumbai 400 020).

2. Shri P. K. Malhotra shall, in addition to his duties and function as Joint Secretary and Legal Adviser, Department of Legal Affairs, Ministry of Law, Justice and Company Affairs, exercise the powers and discharge the functions conferred or imposed on the Tribunal by or under the said Act.

3. This notification shall come into force on the date of its publication in the Official Gazette.

[No. 12020/28/96-A& MMT(TC)]

Y.P. SINGH, Director

विद्युत मंत्रालय

नई दिल्ली, 12 सितम्बर, 2001

का.आ. 2649.—सार्वजनिक स्थान (अप्राधिकृत अभिशोणियों की बे-वखली), अधिनियम, 1971 (1971 का 40) की धारा-3 के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा नीचे दी गई तालिका के कालम (1) में उल्लिखित राष्ट्रीय ताप विद्युत निगम के अधिकारी जो कि भारत सरकार के राजपत्रित अधिकारी के समकक्ष हैं, को उक्त अधिनियमों के प्रयोजनों के लिए संपदा अधिकारी नियुक्त करती है और वह उल्लिखित तालिका के कालम (2) से संबंधित प्रविष्टि में निर्दिष्ट सार्वजनिक स्थानों के बारे में उक्त अधिनियम के द्वारा अथवा उसके अन्तर्गत संपदा अधिकारी को प्रदान की गई शक्तियों का उपयोग कर सकेगा और संपदा अधिकारी को सारी इन कर्तव्यों का पालन करेगा।

तालिका

अधिकारी का नाम व पद	सार्वजनिक स्थलों की श्रेणियों तथा क्षेत्राधिकार की सीमा।
1. श्री थॉमस वर्की प्रबंधक (पी. एण्ड ए.) एनटीपीसी, टांडा ।	एन. टी. पी. सी. टांडा के स्वामित्व वाले, उनके द्वारा पट्टे पर तथा किराए पर लिए गए सभी भूमि, परिसर, एस्टेट संपत्ति तथा अन्य आवास।

[फा. सं. 8/6/92-थर्मल-I]

डा. के. बी. जैकब, उप सचिव

MINISTRY OF POWER

New Delhi, the 12th September, 2001

S.O.2649.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officer mentioned in column (1) of the Table below being an officer of the National Thermal Power Corporation Limited and equivalent to the rank of Gazetted Officer of the Government of India to be Estate Officer for the purpose of the said Act who shall exercise the powers conferred and perform the duties imposed on the estate officers by or under the said Act within the local limits of their jurisdiction in respect of the categories of public premises specified in the corresponding entry in column (2) of the said Table.

TABLE

Serial Number	Name and designation of officer	Categories of public premises and local limits of Jurisdiction
1		2
1.	Shri Thomas Varkey, Manager (P& A) National Thermal Power Corporation Limited TANDA.	All lands, quarters, estate properties and other accommodation owned/ leased and rented by National Thermal Power Corporation Limited TANDA.

[F. No. 8/6/92. Th. I]

Dr. K. V. JACOB, Deputy. Secy.

नई दिल्ली, 12 सितम्बर, 2001

का.प्रा.2650.—सार्वजनिक स्थान (अप्राधिकृत अभिभोगियों की बे-दखली), अधिनियम, 1971 (1971 का 40) की धारा-3 के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा नीचे दी गई तालिका के कालम (1) में उल्लिखित राष्ट्रीय ताप विद्युत निगम के अधिकारी जो कि भारत सरकार के राजपत्रित अधिकारी के समकक्ष है, को उक्त अधिनियमों के प्रयोजनों के लिए संपदा अधिकारी नियुक्त करती है और वह उल्लिखित तालिका का कालम (2) से संबंधित प्रविष्टि में निर्दिष्ट सार्वजनिक स्थानों के बारे में उक्त अधिनियम के द्वारा अथवा उसके अन्तर्गत संपदा अधिकारी को प्रदान की गई शक्तियों का उपयोग कर सकेगा और संपदा अधिकारी को सौंपे गए कर्तव्यों का पालन करेगा।

तालिका

क्र.सं. अधिकारी का नाम व पद	सार्वजनिक स्थलों की श्रेणियों तथा क्षेत्राधिकार की सीमा
1. श्री के.के.एम. नायडु, कार्मिक अधिकारी एनटीपीसी, सिम्हाद्री ।	एन.टी.पी.सी. सिम्हाद्री के स्वामित्व वाले/उनके द्वारा पट्टे पर तथा किराए पर लिए गए सभी भूमि, प्ररिसर, एस्टेट संपत्ति तथा अन्य आवास ।

[फा. सं. 8/6/92-धर्मल-I]

डा. के. वी. जैकब, उप सचिव

New Delhi, the 12th Septembet, 2001

S.O. 2650.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971) the Central Government hereby appoints the officer mentioned in column (1) of the Table below being an officer of the National Thermal Power Corporation Limited and equivalent to the rank of Gazetted Officer of the Government of India to be Estate Officer for the purposes of the said Act who shall exercise the powers conferred and perform the duties imposed on the estate officers by or under the said within the local limits of their jurisdictions in respect of the categories of public premises specified in the corresponding entry in column (2) of the said Table.

TABLE

Serial Number	Name and designation of Officer	Categories of public premises and local limits of jurisdiction
1.	Shri K. K. M. Naidu, Personnel Officer, National Thermal Power Corporation Limited, Simhadri.	All lands, quarters, estates, properties and other accommodation owned/leased and rented by National Thermal Power Corporation Limited Simhadri.

[F. No. 8/6/92-Th. I]

Dr. K. V. JACOB, Deputy Secy.

अन्तरिक्ष विभाग

बेंगलूर, 17 सितम्बर, 2001

क्र.सं. 2651.—नीचे उद्धृत अधिसूचनाओं के आंशिक आशोधन में, सार्वजनिक परिसर (अनाधिकृत दखलकारों की बेदखली) अधिनियम, 1971 (1971 के 40) के खण्ड 3 के अनुसार संपदा अधिकारियों के परिशोधित पदनाम को अक्टूबर 14, 2000 से निम्नानुसार अधिसूचित किया जाता है ।

क्रम सं.	केन्द्र/यूनिट	अधिसूचना सं. तथा दिनांक	संपदा अधिकारी का परिवर्तित पदनाम से	परिवर्तित पदनाम
1	2	3	4	5
1.	सिविल इंजीनियरी प्रभाव, अन्तरिक्ष विभाग, बेंगलूर	सं. 9/2(2)/82-III दिनांक 14-9-1998	प्रशासन अधिकारी-I	प्रशासन अधिकारी

1	2	3	4	5
2.	विक्रम साराभाई अन्तरिक्ष केन्द्र, तिरुवनन्तपुरम	सं. 9/2(2)/84-III दिनांक 8-10-1986	प्रशासन अधिकारी-I/ प्रशासन अधिकारी-II	प्रशासन अधिकारी/ वरिष्ठ प्रशासन अधिकारी
3.	शार केन्द्र, श्रीहरिकोटा, नेल्लूर जिला, आंध्र प्रदेश	सं. 9/2(2)/82-III दिनांक 21-9-1983	प्रशासन अधिकारी-II	वरिष्ठ प्रशासन अधिकारी
4.	इसरो संपर्क यूनिट, मुम्बई	सं. 9/2(2)/82-III दिनांक 9-11-1982	प्रशासन अधिकारी-I/II	सहायक प्रशासन अधिकारी/ प्रशासन अधिकारी

[सं. 2/3(2)/2001-IV]

वी. दत्तगुरु, उप सचिव

DEPARTMENT OF SPACE

Bangalore, the 17th September, 2001

S. O. 2651. —In partial modification of the Notifications quoted below, the revised designation of Estate Officers in terms of Section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), is notified with effect from October 14, 2000, as indicated below :

Sl. No.	Centre/ Unit	Notification No. & Date	Designation of the Estate Officer changed	
			From	To
1.	Civil Engineering Division, Dept. of Space, Bangalore	No. 9/2 (2)/82-III dt. 14-9-1998	Administrative Officer I	Administrative Officer
2.	Vikram Sarabhai Space Centre, Thiruvananthapuram	No. 9/2 (2)/84-III dt. 8-10-1986	Administrative Officer I/ Administrative Officer II	Administrative Officer/ Senior Administrative Officer
3.	SHAR Centre, Sriharikota, Nellore Distt. A. P.	No. 9/2 (2)/82-III dt. 21-9-1983	Administrative Officer II	Senior Administrative Officer
4.	ISRO Liaison Cell, Mumbai	No. 9/2 (2)/82-III dt. 9-11-1982	Administrative Officer I/II	Assistant Administrative Officer/Administrative Officer.

[No. 2/3 (2)/2001-IV]

V. DATTA GURU, Dy. Secy.

पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय

नई दिल्ली, 19 सितम्बर, 2001

का.आ. 2652.—तेल उद्योग (विकास) अधिनियम, 1974 (1974 का 47) की धारा 3 की उपधारा (3) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा तत्काल प्रभावी तारीख से श्री बी. पी. मिश्रा, अपर सचिव (व्यय) व्यय विभाग, नई दिल्ली को श्री वेंकटेश्वरन अईयर, के स्थान पर दो वर्ष से अनधिक अवधि के लिए या अगले आदेश आने तक तेल उद्योग विकास बोर्ड के सदस्य के रूप में नियुक्त करती है।

[सं. जी. 35012/2/91-वित्त. II]

के. पी. के. नम्बीसन, अपर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 19th September, 2001

S.O. 2652.—In exercise of the powers conferred by Clause (a) of Sub-Section (3) Section 3 of the Oil Industry (Development) Act, 1974 (47 of 1974), the Central Government hereby appoints with immediate effect and for a period not exceeding two years, Shri B.P. Misra, Additional Secretary (Expenditure), Department of Expenditure, New Delhi, as a Member of the Oil Industry Development Board, or until further orders vice Shri M. Venkateswaran Iyer.

[No. G. 35012/2/91-Fin. II]

K.P.K. NAMBISSAN, Under Sec.

नई दिल्ली, 20 सितम्बर, 2001

का. आ. 2653.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्यांक का.आ. 2330 तारीख 16 अक्टूबर 2000, द्वारा पश्चिमी बंगाल राज्य में हल्दिया से बिहार राज्य में बरौनी तक इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा कच्चे तेल के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजन हेतु उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार के अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियाँ जनता को तारीख 06 नवम्बर 2000 को उपलब्ध करा दी गई थी;

और उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और केन्द्रीय सरकार का, उक्त रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग का अधिकार अर्जित किया जाना चाहिए;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, घोषणा करती है कि इस अधिसूचना की अनुसूची में विनिर्दिष्ट भूमि में उपयोग का अधिकार पाइपलाइन बिछाए जाने के लिए अर्जित किया जाता है;

यह और कि केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह निदेश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख से केन्द्रीय सरकार में निहित होने के बजाय सभी विल्लंगमों से रहित, इंडियन ऑयल कॉर्पोरेशन लिमिटेड में निहित होगा।

अनुसूची					
परिचय याता	सदरनाम	जिला : बथमान		राज्य : पश्चिमी बंगाल	
संदि	अधिकारिता	प्लॉट	क्षेत्र		
	सूची संख्या	संख्या	हेक्टर	आर	मैट्रीआर
1	2	3	4	5	6
महाराज	106	33	0	5	39
		34	0	13	91
		35	0	11	89
		37	0	0	59
		70	0	2	87
		73	0	8	35
		74	0	8	24
		77	0	2	87
		78	0	8	15
		142	0	4	79
		143	0	5	35
		144	0	0	34
		145	0	6	56
		146	0	8	80
		147	0	7	69
		250	0	8	91
		251	0	9	41
		252	0	3	29
		255	0	4	86
		256	0	7	72
		504	0	0	20
		506	0	14	02
		507	0	1	89
		508	0	7	26
		509	0	0	20
		511	0	1	19
		512	0	9	05
		514	0	1	58
		527	0	0	20
		1024	0	1	14
		1025	0	5	65
		1026	0	8	07
		1029	0	0	20
		1049	0	0	20
		1050	0	3	71
		1051	0	5	34

	2	3	4	5	6
		1052	0	1	39
		1053	0	4	50
		1057	0	5	68
		1058	0	1	87
		1062	0	0	20
		1073	0	0	20
		1074	0	2	41
		1075	0	4	46
		1076	0	1	39
		1077	0	0	20
		1078	0	4	18
		1079	0	0	67
		1080	0	0	20
		1083	0	1	80
		1084	0	0	20
इन्दुलि	105	34	0	17	82
		35	0	0	20
		37	0	10	30
		43	0	10	77
		44	0	4	51
		45	0	0	34
		46	0	1	38
		47	0	5	85
		48	0	0	34
		50	0	0	20
		80	0	6	91
		81	0	5	96
		181	0	0	20
		184	0	0	93
		272	0	12	25
		273	0	2	56
		274	0	2	78
		275	0	15	08
		276	0	0	20
		288	0	6	13
		289	0	12	63
		295	0	14	29
		296	0	3	34
		297	0	6	68

1	2	3	4	5	6
		298	0	2	29
		408	0	0	20
		422	0	10	02
		423	0	1	16
		424	0	11	36
		425	0	1	39
		429	0	7	10
		441	0	1	86
		444	0	3	90
		445	0	0	20
		446	0	4	31
		448	0	0	20
		449	0	1	42
		450	0	1	88
		451	0	3	16
		453	0	0	20
		460	0	3	74
		461	0	2	05
		462	0	0	20
		463	0	4	01
		464	0	3	34
		465	0	2	55
		466	0	3	45
		467	0	3	34
		468	0	2	51
		469	0	0	20
		470	0	10	40
		853	0	0	20
		859	0	2	48
		860	0	0	20
		979	0	2	55
		980	0	1	10
		981	0	0	67
		982	0	0	36
		984	0	0	20
		987	0	4	06
		988	0	16	97
		991	0	1	39
		992	0	3	55
		993	0	1	44

1	2	3	4	5	6
		995	0	0	21
		1069	0	6	68
		1279	0	16	41
		1280	0	1	61
		1281	0	1	83
		1288	0	0	20
		1289	0	1	44
		1290	0	6	68
		1293	0	2	23
		1294	0	1	37
		1298	0	0	20
		1299	0	5	57
		1305	0	0	20
		1306	0	1	78
		1307	0	5	85
		4146	0	6	04
		4147	0	10	08
		4148	0	0	20
		4150	0	7	38
		4151	0	1	22
		4154	0	10	85
		4157	0	7	43
		4158	0	1	36
		4159	0	7	71
		4160	0	5	79
		4161	0	3	71
		4183	0	8	22
		4184	0	4	39
		4185	0	2	57
		4190	0	13	64
		4191	0	10	00
		4207	0	1	66
		4208	0	7	36
		4209	0	4	68
		4210	0	0	20
		4220	0	0	20
		4221	0	0	42
		4222	0	2	63
		4223	0	12	04
		4224	0	1	86

1	2	3	4	5	6
		4225	0	9	58
		4226	0	7	61
		4227	0	0	20
		4268	0	13	09
		4269	0	6	82
		4270	0	8	26
		4271	0	6	57
		4272	0	2	48
		4273	0	2	16
		4528	0	0	20
		33/1451	0	7	49
		853/1444	0	0	20
		1080/1446	0	0	56
		1279/1445	0	0	56
		1281/1455	0	1	30
		1289/1352	0	5	29
तरकबना	104	1100	0	13	37
		1136	0	0	20
		1142	0	5	20
		1143	0	5	12
		1144	0	0	20
		1145	0	1	23
		1181	0	9	61
		1182	0	0	20
		1183	0	2	78
		1184	0	7	98
		1185	0	0	20
		1187	0	1	34
		1188	0	8	86
		1189	0	0	20
		1196	0	0	20
		1197	0	2	51
		1198	0	1	17
		1199	0	1	30
		1200	0	0	20
		1207	0	1	93
		1208	0	0	88
		1209	0	4	53
		1211	0	4	18

1	2	3	4	5	6
		1212	0	4	51
		1322	0	0	83
		1552	0	0	70
		1553	0	6	31
		1555	0	0	83
		1556	0	4	63
		1557	0	2	10
		1558	0	9	00
		1559	0	3	45
		1560	0	2	15
		1563	0	1	76
		1564	0	0	70
		1579	0	7	24
		1580	0	6	88
		1583	0	5	48
		1584	0	1	21
		1586	0	4	46
		1587	0	11	03
		1588	0	5	94
		1633	0	5	68
		1634	0	3	90
		1635	0	0	35
		1636	0	7	80
		1637	0	0	42
		1773	0	0	20
		2182	0	7	80
		2183	0	8	03
		2184	0	0	75
		2187	0	9	61
		2190	0	4	81
		2191	0	11	14
		2232	0	0	20
		2233	0	6	64
		2234	0	1	22
		2237	0	3	36
		2238	0	2	23
		2239	0	0	20
		2267	0	0	20
		2269	0	4	32
		2270	0	5	94

1	2	3	4	5	6
		2271	0	6	96
		2272	0	9	33
		2273	0	0	53
		2275	0	0	20
		2276	0	0	20
		2277	0	7	41
		2280	0	4	46
		2283	0	0	20
		2284	0	1	95
		2285	0	2	41
		2286	0	7	38
		2049/2355	0	3	67
		2234/2314	0	0	20
		2234/2315	0	2	38
		2280/2353	0	1	37
		2286/2354	0	0	20
बालावाटि	100	236	0	10	08
		237	0	1	11
		238	0	5	24
		239	0	0	42
		241	0	1	49
		242	0	11	99
		243	0	0	20
		245	0	8	35
		255	0	0	20
		256	0	9	52
		258	0	4	79
		259	0	2	34
		279	0	0	22
		280	0	5	41
		281	0	0	20
		282	0	2	83
		279/490	0	1	67
गोपिनाथपुर	97	636	0	8	52
		641	0	0	20
		642	0	8	35
		643	0	10	02
		644	0	2	95

1	2	3	4	5	6
		646	0	11	34
		647	0	1	10
		651	0	4	46
		653	0	6	13
		662	0	2	23
		667	0	2	41
		670	0	5	38
		671	0	4	51
		672	0	5	98
		706	0	5	85
		707	0	5	38
		825	0	11	55
		838	0	1	67
		844	0	9	33
		845	0	21	30
		848	0	0	20
		851	0	0	34
		852	0	0	64
		855	0	5	24
		856	0	1	75
		857	0	0	45
		874	0	0	42
		877	0	5	57
		878	0	9	19
		883	0	9	55
		885	0	0	20
		901	0	2	91
		609/908	0	7	69
काइजार	96	34	0	0	20
		39	0	0	32
		40	0	5	56
		54	0	5	09
		55	0	1	37
		57	0	0	51
		58	0	2	84
		59	0	2	31
		74	0	1	97
		75	0	0	89
		76	0	2	45

1	2	3	4	5	6
		77	0	2	23
		78	0	0	20
		173	0	1	67
		174	0	0	40
		175	0	3	79
		176	0	3	88
		177	0	7	29
		178	0	1	53
		179	0	1	82
		180	0	1	56
		181	0	1	13
		217	0	0	20
		224	0	4	84
		225	0	3	02
		226	0	4	23
		228	0	0	20
		229	0	1	86
		230	0	12	03
		261	0	0	34
		262	0	2	41
		263	0	2	78
		264	0	0	20
		265	0	1	78
		271	0	0	49
		277	0	2	04
		278	0	5	38
		279	0	3	43
		282	0	2	78
		283	0	0	83
		284	0	1	10
		285	0	2	92
		286	0	1	53
		287	0	2	27
		298	0	0	72
		318	0	3	34
		319	0	1	16
		320	0	3	25
		321	0	1	89
		1810	0	7	40
		1811	0	1	75

1	2	3	4	5	6
		1812	0	2	37
		1814	0	0	93
		1865	0	1	86
		1866	0	10	74
		1867	0	0	23
		1901	0	9	84
		1903	0	1	31
		1904	0	1	82
		1905	0	1	67
		1906	0	10	10
		1909	0	2	40
		1910	0	0	20
		1911	0	5	18
		1912	0	2	65
		1913	0	3	84
		1933	0	0	20
		1934	0	0	20
		1939	0	0	20
		1865/3215	0	4	95
		331/1785	0	0	20
गोपालपुर	87	174	0	0	20
		175	0	4	46
		176	0	6	68
		177	0	5	90
		179	0	2	76
		180	0	1	14
		190	0	0	20
		191	0	9	28
		192	0	0	20
		195	0	8	17
		196	0	2	04
		197	0	5	57
		198	0	3	06
		647	0	1	45
		649	0	4	18
		650	0	9	28
		652	0	0	20
		653	0	0	70
		661	0	5	85

1	2	3	4	5	6
		662	0	2	51
		663	0	3	16
		669	0	3	34
		670	0	10	18
		671	0	0	20
		672	0	7	61
		673	0	0	20
		674	0	0	23
		679	0	0	25
		680	0	0	20
		681	0	7	05
		721	0	3	17
		723	0	5	01
		724	0	2	00
		725	0	7	80
		779	0	11	59
		780	0	3	48
		781	0	1	11
		782	0	1	00
		785	0	2	55
कमदेवपुर	95	16	0	0	20
		30	0	12	53
		34	0	4	40
		35	0	10	86
		244	0	0	82
		245	0	0	20
		246	0	5	90
		247	0	0	20
		248	0	3	90
		249	0	3	69
		250	0	3	50
पिताम्बरपुर	99	278	0	0	20
		279	0	2	66
		280	0	6	03
		281	0	3	11
		282	0	5	20
		283	0	7	52
		284	0	3	02

1	2	3	4	5	6
		296	0	0	20
		297	0	8	54
		298	0	0	20
		299	0	1	97
		301	0	0	20
		326	0	2	14
		327	0	6	68
		328	0	2	23
		329	0	6	92
		330	0	1	21
		337	0	2	04
		338	0	2	51
		339	0	10	02
		343	0	0	49
		344	0	9	54
		346	0	2	08
		347	0	3	84
बिन्तामणिपुर	89	170	0	0	20
		171	0	4	91
		172	0	0	20
		173	0	2	82
		174	0	1	18
		175	0	1	29
		176	0	0	60
		177	0	1	57
		178	0	4	22
		179	0	1	26
		180	0	2	68
		181	0	0	20
		183	0	10	69
		186	0	3	73
		187	0	0	20
		194	0	5	57
		195	0	5	29
		196	0	2	81
		197	0	6	50
		270	0	0	20
		271	0	0	84
		276	0	0	20

1	2	3	4	5	6
		278	0	24	61
		279	0	3	01
		280	0	0	38
		303	0	4	68
		306	0	0	42
		307	0	8	60
		308	0	9	36
		311	0	4	46
		312	0	2	44
		313	0	5	79
अंग्राम	88	89	0	1	62
		90	0	7	05
		91	0	4	21
		92	0	11	32
		94	0	0	85
		95	0	1	14
		96	0	5	57
		97	0	2	00
		107	0	0	26
		108	0	6	70
		109	0	6	03
		135	0	0	20
		140	0	0	89
		141	0	20	38
		143	0	0	20
		144	0	18	94
		141/720	0	0	20
		141/734	0	4	79
शंकरी	70	1195	0	2	08
		1196	0	0	42
		1199	0	6	48
		1206	0	2	41
		1207	0	4	73
		1208	0	2	78
		1209	0	1	81
		1210	0	0	42
		1222	0	6	13
		1223	0	0	20

1	2	3	4	5	6
		1225	0	6	50
		1226	0	0	20
		1227	0	2	41
		1228	0	9	93
		1229	0	1	76
		1233	0	0	20
		1237	0	2	72
		1238	0	0	70
		1377	0	9	00
		1378	0	11	14
		1418	0	6	45
		1419	0	4	18
		1420	0	13	65
		1421	0	2	65
		1426	0	2	78
		1427	0	14	42
		1432	0	7	63
		6023	0	2	36
		6025	0	4	07
		6026	0	6	49
		6027	0	13	64
		6028	0	0	93
		6029	0	3	99
		6385	0	0	34
		6386	0	8	22
		6387	0	0	20
		6388	0	4	73
		6389	0	1	39
		6390	0	5	57
		6391	0	4	15
		6392	0	1	45
		6398	0	4	73
		6399	0	1	89
		6400	0	6	96
		6401	0	1	25
		6402	0	4	18
		6403	0	1	35
		7003	0	3	14
		7004	0	9	89
		7005	0	0	20

1	2	3	4	5	6
		7007	0	1	81
		7008	0	8	77
		7009	0	1	02
		7011	0	5	73
		7013	0	6	17
		7014	0	3	27
		7015	0	5	20
		7016	0	7	80
		6380/8165	0	4	40
		6403/7247	0	4	18
		7003/7245	0	0	25
		7009/7206	0	0	20
कृष्णपुर कुमरा	83	6	0	1	81
		7	0	9	14
		29	0	7	96
		38	0	2	97
		39	0	2	99
		40	0	3	59
		537	0	0	20
		538	0	10	36
		578	0	7	24
		579	0	4	52
		580	0	0	91
		581	0	0	92
		582	0	0	98
		586	0	2	19
		587	0	0	93
		588	0	1	67
		589	0	0	47
		608	0	1	51
		609	0	0	97
		611	0	1	23
		618	0	1	59
		619	0	1	25
		622	0	2	60
		623	0	3	99
		624	0	1	95
		625	0	9	36
		626	0	4	18

1	2	3	4	5	6
		627	0	4	46
		629	0	5	51
		658	0	2	91
		661	0	6	22
		662	0	1	34
		663	0	1	65
		665	0	5	79
		666	0	4	23
		1178	0	0	20
		1179	0	9	80
		1180	0	5	01
		1453	0	3	06
		1500	0	7	89
		587/1130	0	1	56
		624/1122	0	2	09
चाग्राम	84	1834	0	19	10
		1835	0	4	95
		1836	0	1	60
		1837	0	6	41
		1839	0	1	00
		1840	0	7	17
		1841	0	5	08
		1848	0	0	20
		1851	0	0	20
		1852	0	7	24
		1854	0	5	85
		1855	0	13	25
		1856	0	0	20
		1860	0	5	71
		1885	0	1	01
		1887	0	0	20
		1889	0	3	23
		1890	0	3	40
		1891	0	0	20
		1896	0	8	26
		1897	0	10	19
		1898	0	3	99
		1899	0	5	35
		2189	0	0	20

1	2	3	4	5	6
		2207	0	1	93
		2209	0	1	56
		2211	0	0	88
		2230	0	11	70
		2231	0	9	75
		2236	0	8	63
		2238	0	6	96
		2239	0	14	33
		2242	0	6	19
		2244	0	7	35
		2245	0	4	40
		2246	0	2	73
		2249	0	3	01
		2250	0	12	81
		2253	0	0	51
		2254	0	6	76
		2256	0	8	82
		2257	0	2	27
		2258	0	1	49
		2649	0	8	35
		2651	0	1	58
		2652	0	5	18
		2653	0	1	56
		2654	0	7	07
		2655	0	6	98
		2659	0	6	70
		2660	0	0	53
		2661	0	4	39
		2665	0	10	86
		2666	0	3	90
		2667	0	0	20
		2670	0	0	20
		2671	0	7	79
		2899	0	4	64
		2902	0	10	51
		2903	0	5	75
		2905	0	0	26
		2906	0	1	56
		2907	0	1	04
		2908	0	8	68

1	2	3	4	5	6
		2913	0	4	50
		2914	0	7	24
		2915	0	4	51
		2916	0	3	23
		2917	0	3	34
		5787	0	4	29
		5788	0	2	04
		5791	0	30	13
		5861	0	0	28
		5868	0	5	71
		5870	0	0	65
		5871	0	9	19
		5872	0	21	21
		5876	0	11	58
		5877	0	0	20
		5895	0	16	43
		5896	0	0	20
		5999	0	11	51
		6000	0	2	02
		6003	0	1	21
		6004	0	9	38
		6005	0	3	53
		6022	0	0	20
		6023	0	2	88
		6024	0	1	56
		6025	0	2	69
		6032	0	11	47
		6033	0	4	46
		6034	0	7	43
		6038	0	2	35
		6039	0	0	20
		6134	0	11	68
		6136	0	17	38
		6137	0	1	67
		2240/6281	0	3	07
		2667/6411	0	1	25
		2889/6395	0	2	12
		2973/6431	0	3	06
		5899/6212	0	1	86
		6134/6215	0	1	91

1	2	3	4	5	6
नापारा	56	1535	0	3	25
		1536	0	37	20
माशिला	57	446	0	0	80
		447	0	4	88
		448	0	5	82
		449	0	3	40
		452	0	0	75
		453	0	0	70
		1276	0	3	28
<hr/>					
पुलिस थाना : वर्धमान					
नाला	20	11	0	1	87
		14	0	7	70
		15	0	18	15
		16	0	5	57
		17	0	23	23
		18	0	0	20
		23	0	3	10
		36	0	0	84
		37	0	10	78
		38	0	1	85
		5137	0	0	37
		5140	0	33	45
<hr/>					
पुलिस थाना : गलामि					
कनारपुर	161	2934	0	53	40

[फा. सं. 31015/40/2000-ओ.आर-1]

एस. चन्द्रशेखर, अवर सचिव

New Delhi, the 20th September, 2001

S. O. 2653.— Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas number S.O. 2330 dated the 16th October, 2000, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962) (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipeline for the transport of crude oil from Haldia in the State of West Bengal to Barauni in the State of Bihar, by Indian Oil Corporation Limited;

And whereas, the copies of the said gazette notification were made available to the public on 06th November, 2000 ;

And whereas, the Competent Authority in pursuance of sub-section (1) of section 6 of the said Act, has submitted his report to the Central Government;

And whereas, the Central Government, after considering the said report, is satisfied that the right of user in the land specified in the Schedule appended to this notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the lands specified in the Schedule to this notification are hereby acquired for laying the pipeline;

And further, in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said land shall instead of vesting in the Central Government, vest from the date of publication of this declaration, in the Indian Oil Corporation Limited, free from all encumbrances.

Schedule					
Police Station : Khandaghosh	District : Burdwan		State : West Bengal		
Village	Jurisdiction List No.	Plot No.	Area		
1	2	3	Hectares	Ares	Centiares
Muidhara	106	33	0	5	39
		34	0	13	91
		35	0	11	89
		37	0	0	59
		70	0	2	87
		73	0	8	35
		74	0	8	24
		77	0	2	87

1	2	3	4	5	6
		78	0	8	15
		142	0	4	79
		143	0	5	35
		144	0	0	34
		145	0	6	56
		146	0	8	80
		147	0	7	69
		250	0	8	91
		251	0	9	41
		252	0	3	29
		255	0	4	86
		256	0	7	72
		504	0	0	20
		506	0	14	02
		507	0	1	89
		508	0	7	26
		509	0	0	20
		511	0	1	19
		512	0	9	05
		514	0	1	58
		527	0	0	20
		1024	0	1	14
		1025	0	5	65
		1026	0	8	07
		1029	0	0	20
		1049	0	0	20
		1050	0	3	71
		1051	0	5	34
		1052	0	1	39
		1053	0	4	50
		1057	0	5	68
		1058	0	1	87
		1062	0	0	20
		1073	0	0	20
		1074	0	2	41
		1075	0	4	46
		1076	0	1	39
		1077	0	0	20
		1078	0	4	18
		1079	0	0	67
		1080	0	0	20
		1083	0	1	80
		1084	0	0	20

1	2	3	4	5	6
Induti	105	34	0	17	82
		35	0	0	20
		37	0	10	30
		43	0	10	77
		44	0	4	51
		45	0	0	34
		46	0	1	38
		47	0	5	85
		48	0	0	34
		50	0	0	20
		80	0	6	91
		81	0	5	96
		181	0	0	20
		184	0	0	93
		272	0	12	25
		273	0	2	56
		274	0	2	78
		275	0	15	08
		276	0	0	20
		288	0	6	13
		289	0	12	63
		295	0	14	29
		296	0	3	34
		297	0	6	68
		298	0	2	29
		408	0	0	20
		422	0	10	02
		423	0	1	16
		424	0	11	36
		425	0	1	39
		429	0	7	10
		441	0	1	86
		444	0	3	90
		445	0	0	20
		446	0	4	31
		448	0	0	20
		449	0	1	42
		450	0	1	88
		451	0	3	16
		453	0	0	20
		460	0	3	74
		461	0	2	05
		462	0	0	20
		463	0	4	01
		464	0	3	34

1	2	3	4	5	6
		465	0	2	55
		466	0	3	45
		467	0	3	34
		468	0	2	51
		469	0	0	20
		470	0	10	40
		853	0	0	20
		859	0	2	48
		860	0	0	20
		979	0	2	55
		980	0	1	10
		981	0	0	67
		982	0	0	36
		984	0	0	20
		987	0	4	06
		988	0	16	97
		991	0	1	39
		992	0	3	55
		993	0	1	44
		995	0	0	21
		1069	0	6	68
		1279	0	16	41
		1280	0	1	61
		1281	0	1	83
		1288	0	0	20
		1289	0	1	44
		1290	0	6	68
		1293	0	2	23
		1294	0	1	37
		1298	0	0	20
		1299	0	5	57
		1305	0	0	20
		1306	0	1	78
		1307	0	5	85
		4146	0	6	04
		4147	0	10	08
		4148	0	0	20
		4150	0	7	38
		4151	0	1	22
		4154	0	10	85
		4157	0	7	43
		4158	0	1	36
		4159	0	7	71
		4160	0	5	79
		4161	0	3	71

1	2	3	4	5	6
		4183	0	8	22
		4184	0	4	39
		4185	0	2	57
		4190	0	13	64
		4191	0	10	00
		4207	0	1	66
		4208	0	7	36
		4209	0	4	68
		4210	0	0	20
		4220	0	0	20
		4221	0	0	42
		4222	0	2	63
		4223	0	12	04
		4224	0	1	86
		4225	0	9	58
		4226	0	7	61
		4227	0	0	20
		4268	0	13	09
		4269	0	6	82
		4270	0	8	26
		4271	0	6	57
		4272	0	2	48
		4273	0	2	16
		4528	0	0	20
		33/1451	0	7	49
		853/1444	0	0	20
		1080/1446	0	0	56
		1279/1445	0	0	56
		1281/1455	0	1	30
		1289/1352	0	5	29
Torkona	104	1100	0	13	37
		1136	0	0	20
		1142	0	5	20
		1143	0	5	12
		1144	0	0	20
		1145	0	1	23
		1181	0	9	61
		1182	0	0	20
		1183	0	2	78
		1184	0	7	98
		1185	0	0	20
		1187	0	1	34
		1188	0	8	86
		1189	0	0	20

1	2	3	4	5	6
		1196	0	0	20
		1197	0	2	51
		1198	0	1	17
		1199	0	1	30
		1200	0	0	20
		1207	0	1	93
		1208	0	0	88
		1209	0	4	53
		1211	0	4	18
		1212	0	4	51
		1322	0	0	83
		1552	0	0	70
		1553	0	6	31
		1555	0	0	83
		1556	0	4	63
		1557	0	2	10
		1558	0	9	00
		1559	0	3	45
		1560	0	2	15
		1563	0	1	76
		1564	0	0	70
		1579	0	7	24
		1580	0	6	88
		1583	0	5	48
		1584	0	1	21
		1586	0	4	46
		1587	0	11	03
		1588	0	5	94
		1633	0	5	68
		1634	0	3	90
		1635	0	0	35
		1636	0	7	80
		1637	0	0	42
		1773	0	0	20
		2182	0	7	80
		2183	0	8	03
		2184	0	0	75
		2187	0	9	61
		2190	0	4	81
		2191	0	11	14
		2232	0	0	20
		2233	0	6	64
		2234	0	1	22
		2237	0	3	36
		2238	0	2	23

1	2	3	4	5	6
		2239	0	0	20
		2267	0	0	20
		2269	0	4	32
		2270	0	5	94
		2271	0	6	96
		2272	0	9	33
		2273	0	0	53
		2275	0	0	20
		2276	0	0	20
		2277	0	7	41
		2280	0	4	46
		2283	0	0	20
		2284	0	1	95
		2285	0	2	41
		2286	0	7	38
		2049/2355	0	3	67
		2234/2314	0	0	20
		2234/2315	0	2	38
		2280/2353	0	1	37
		2286/2354	0	0	20
Balabati	100	236	0	10	08
		237	0	1	11
		238	0	5	24
		239	0	0	42
		241	0	1	49
		242	0	11	99
		243	0	0	20
		245	0	8	35
		255	0	0	20
		256	0	9	52
		258	0	4	79
		259	0	2	34
		279	0	0	22
		280	0	5	41
		281	0	0	20
		282	0	2	83
		279/490	0	1	67
Gopinathpur	97	636	0	8	52
		641	0	0	20
		642	0	8	35
		643	0	10	02
		644	0	2	95

1	2	3	4	5	6
		646	0	11	34
		647	0	1	10
		651	0	4	46
		653	0	6	13
		662	0	2	23
		667	0	2	41
		670	0	5	38
		671	0	4	51
		672	0	5	98
		706	0	5	85
		707	0	5	38
		825	0	11	55
		838	0	1	67
		844	0	9	33
		845	0	21	30
		848	0	0	20
		851	0	0	34
		852	0	0	64
		855	0	5	24
		856	0	1	75
		857	0	0	45
		874	0	0	42
		877	0	5	57
		878	0	9	19
		883	0	9	55
		885	0	0	20
		901	0	2	91
		609/908	0	7	69
Kaiar	96	34	0	0	20
		39	0	0	32
		40	0	5	56
		54	0	5	09
		55	0	1	37
		57	0	0	51
		58	0	2	84
		59	0	2	31
		74	0	1	97
		75	0	0	89
		76	0	2	45

1	2	3	4	5	6
		77	0	2	23
		78	0	0	20
		173	0	1	67
		174	0	0	40
		175	0	3	79
		176	0	3	88
		177	0	7	29
		178	0	1	53
		179	0	1	82
		180	0	1	56
		181	0	1	13
		217	0	0	20
		224	0	4	84
		225	0	3	02
		226	0	4	23
		228	0	0	20
		229	0	1	86
		230	0	12	03
		261	0	0	34
		262	0	2	41
		263	0	2	78
		264	0	0	20
		265	0	1	78
		271	0	0	49
		277	0	2	04
		278	0	5	38
		279	0	3	43
		282	0	2	78
		283	0	0	83
		284	0	1	10
		285	0	2	92
		286	0	1	53
		287	0	2	27
		298	0	0	72
		318	0	3	34
		319	0	1	16
		320	0	3	25
		321	0	1	89
		1810	0	7	40
		1811	0	1	75

1	2	3	4	5	6
		1812	0	2	37
		1814	0	0	93
		1865	0	1	86
		1866	0	10	74
		1867	0	0	23
		1901	0	9	84
		1903	0	1	31
		1904	0	1	82
		1905	0	1	67
		1906	0	10	10
		1909	0	2	40
		1910	0	0	20
		1911	0	5	18
		1912	0	2	65
		1913	0	3	84
		1933	0	0	20
		1934	0	0	20
		1939	0	0	20
		1865/3215	0	4	95
		331/1785	0	0	20
Gopalpur	87	174	0	0	20
		175	0	4	46
		176	0	6	68
		177	0	5	90
		179	0	2	76
		180	0	1	14
		190	0	0	20
		191	0	9	28
		192	0	0	20
		195	0	8	17
		196	0	2	04
		197	0	5	57
		198	0	3	06
		647	0	1	45
		649	0	4	18
		650	0	9	28
		652	0	0	20
		653	0	0	70
		661	0	5	85

1	2	3	4	5	6
		662	0	2	51
		663	0	3	16
		669	0	3	34
		670	0	10	18
		671	0	0	20
		672	0	7	61
		673	0	0	20
		674	0	0	23
		679	0	0	25
		680	0	0	20
		681	0	7	05
		721	0	3	17
		723	0	5	01
		724	0	2	00
		725	0	7	80
		779	0	11	59
		780	0	3	48
		781	0	1	11
		782	0	1	00
		785	0	2	55
Kamdebpur	95	16	0	0	20
		30	0	12	53
		34	0	4	46
		35	0	10	86
		244	0	0	82
		245	0	0	20
		246	0	5	90
		247	0	0	20
		248	0	3	90
		249	0	3	69
		250	0	3	50
Pitambarpur	99	278	0	0	20
		279	0	2	66
		280	0	6	03
		281	0	3	11
		282	0	5	20
		283	0	7	52
		284	0	3	02

1	2	3	4	5	6
		296	0	0	20
		297	0	8	54
		298	0	0	20
		299	0	1	97
		301	0	0	20
		326	0	2	14
		327	0	6	68
		328	0	2	23
		329	0	6	92
		330	0	1	21
		337	0	2	04
		338	0	2	51
		339	0	10	02
		343	0	0	49
		344	0	9	54
		346	0	2	08
		347	0	3	84
Chintamanipur	89	170	0	0	20
		171	0	4	91
		172	0	0	20
		173	0	2	82
		174	0	1	18
		175	0	1	29
		176	0	0	60
		177	0	1	57
		178	0	4	22
		179	0	1	26
		180	0	2	68
		181	0	0	20
		183	0	10	69
		186	0	3	73
		187	0	0	20
		194	0	5	57
		195	0	5	29
		196	0	2	81
		197	0	6	50
		270	0	0	20
		271	0	0	84
		276	0	0	20

1	2	3	4	5	6
		1225	0	6	50
		1226	0	0	20
		1227	0	2	41
		1228	0	9	93
		1229	0	1	76
		1233	0	0	20
		1237	0	2	72
		278	0	24	61
		279	0	3	01
		280	0	0	38
		303	0	4	68
		306	0	0	42
		307	0	8	60
		308	0	9	36
		311	0	4	46
		312	0	2	44
		313	0	5	79
Angram	88	89	0	1	62
		90	0	7	05
		91	0	4	21
		92	0	11	32
		94	0	0	85
		95	0	1	14
		96	0	5	57
		97	0	2	00
		107	0	0	26
		108	0	6	70
		109	0	6	03
		135	0	0	20
		140	0	0	89
		141	0	20	38
		143	0	0	20
		144	0	18	94
		141/720	0	0	20
		141/734	0	4	79
Shankari	70	1195	0	2	08
		1196	0	0	42
		1199	0	6	48
		1206	0	2	41
		1207	0	4	73
		1208	0	2	78
		1209	0	1	81
		1210	0	0	42
		1222	0	6	13
		1223	0	0	20

1	2	3	4	5	6
		1238	0	0	70
		1377	0	9	00
		1378	0	11	14
		1418	0	6	45
		1419	0	4	18
		1420	0	13	65
		1421	0	2	65
		1426	0	2	78
		1427	0	14	42
		1432	0	7	63
		6023	0	2	36
		6025	0	4	07
		6026	0	6	49
		6027	0	13	64
		6028	0	0	93
		6029	0	3	99
		6385	0	0	34
		6386	0	8	22
		6387	0	0	20
		6388	0	4	73
		6389	0	1	39
		6390	0	5	57
		6391	0	4	15
		6392	0	1	45
		6398	0	4	73
		6399	0	1	89
		6400	0	6	96
		6401	0	1	25
		6402	0	4	18
		6403	0	1	35
		7003	0	3	14
		7004	0	9	89
		7005	0	0	20
		7007	0	1	81
		7008	0	8	77
		7009	0	1	02
		7011	0	5	73
		7013	0	6	17
		7014	0	3	27
		7015	0	5	20
		7016	0	7	80
		6380/8165	0	4	40
		6403/7247	0	4	18
		7003/7245	0	0	25
		7009/7206	0	0	20

1	2	3	4	5	6
K. Ishmapur Kukra	83	6	0	1	81
		7	0	9	14
		29	0	7	96
		38	0	2	97
		39	0	2	99
		40	0	3	59
		537	0	0	20
		538	0	10	36
		578	0	7	24
		579	0	4	52
		580	0	0	91
		581	0	0	92
		582	0	0	98
		586	0	2	19
		587	0	0	93
		588	0	1	67
		589	0	0	47
		608	0	1	51
		609	0	0	97
		611	0	1	23
		618	0	1	59
		619	0	1	25
		622	0	2	60
		623	0	3	99
		624	0	1	95
		625	0	9	36
		626	0	4	18
		627	0	4	46
		629	0	5	51
		658	0	2	91
		661	0	6	22
		662	0	1	34
		663	0	1	65
		665	0	5	79
		666	0	4	23
		1178	0	0	20
		1179	0	9	80
		1180	0	5	01
		1453	0	3	06
		1500	0	7	89
		587/1130	0	1	56
		624/1122	0	2	09

1	2	3	4	5	6
Chagram	84	1834	0	19	10
		1835	0	4	95
		1836	0	1	60
		1837	0	6	41
		1839	0	1	00
		1840	0	7	17
		1841	0	5	08
		1848	0	0	20
		1851	0	0	20
		1852	0	7	24
		1854	0	5	85
		1855	0	13	25
		1856	0	0	20
		1860	0	5	71
		1885	0	1	01
		1887	0	0	20
		1889	0	3	23
		1890	0	3	40
		1891	0	0	20
		1896	0	8	26
		1897	0	10	19
		1898	0	3	99
		1899	0	5	35
		2189	0	0	20
		2207	0	1	93
		2209	0	1	56
		2211	0	0	88
		2230	0	11	70
		2231	0	9	75
		2236	0	8	63
		2238	0	6	96
		2239	0	14	33
		2242	0	6	19
		2244	0	7	35
		2245	0	4	40
		2246	0	2	73
		2249	0	3	01
		2250	0	12	81
		2253	0	0	51
		2254	0	6	76
		2256	0	8	82
		2257	0	2	27
		2258	0	1	49
		2649	0	8	35

1	2	3	4	5	6
		2651	0	1	58
		2652	0	5	18
		2653	0	1	56
		2654	0	7	07
		2655	0	6	98
		2659	0	6	70
		2660	0	0	53
		2661	0	4	39
		2665	0	10	86
		2666	0	3	90
		2667	0	0	20
		2670	0	0	20
		2671	0	7	79
		2899	0	4	64
		2902	0	10	51
		2903	0	5	75
		2905	0	0	26
		2906	0	1	56
		2907	0	1	04
		2908	0	8	68
		2913	0	4	50
		2914	0	7	24
		2915	0	4	51
		2916	0	3	23
		2917	0	3	34
		5787	0	4	29
		5788	0	2	04
		5791	0	30	13
		5861	0	0	28
		5868	0	5	71
		5870	0	0	65
		5871	0	9	19
		5872	0	21	21
		5876	0	11	53
		5877	0	0	20
		5895	0	16	43
		5896	0	0	20
		5999	0	11	51
		6000	0	2	02
		6003	0	1	21
		6004	0	9	36
		6005	0	3	52
		6022	0	0	20
		6023	0	2	88
		6024	0	1	56

1	2	3	4	5	6
		6025	0	2	69
		6032	0	11	47
		6033	0	4	46
		6034	0	7	43
		6038	0	2	35
		6039	0	0	20
		6134	0	11	68
		6136	0	17	38
		6137	0	1	67
		2240/6281	0	3	07
		2667/6411	0	1	25
		2899/6395	0	2	12
		2973/6431	0	3	06
		5899/6212	0	1	86
		6134/6215	0	1	91
Napara	56	1535	0	3	25
		1536	0	37	20
Mashila	57	446	0	0	80
		447	0	4	88
		448	0	5	82
		449	0	3	40
		452	0	0	75
		453	0	0	70
		1276	0	3	28
Police Station : Burdwan					
Nala	20	11	0	1	87
		14	0	7	70
		15	0	18	15
		16	0	5	57
		17	0	23	23
		18	0	0	20
		23	0	3	10
		36	0	0	84
		37	0	10	78
		38	0	1	85
		5137	0	0	37
		5140	0	33	45
Police Station : Galsi					
Konarpur	161	2934	0	53	40

नई दिल्ली, 28 सितम्बर, 2001

का. आ. 2654.— केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में मुन्द्रा पत्तन स्थित अपरिष्कृत तेल संस्थापन (सी.ओ.टी.) मुन्द्रा से गुजरती हुई भटिंडा पाइपलाइन पंजाब राज्य में भटिंडा तक अपरिष्कृत तेल के परिवहन के लिए एक पाइपलाइन गुरुगोबिन्दसिंह रिफाइनरीज लिमिटेड (हिन्दुस्तान पेट्रोलियम कॉरपोरेशन लिमिटेड की समनुषंगी) द्वारा बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को यह प्रतीत होता है कि उक्त पाइपलाइन बिछाने के प्रयोजन के लिए ऐसी भूमि जिसके भीतर उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है और जो इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित है, के लिए उपयोग का अधिकार अर्जित करना आवश्यक है ;

अतः अब केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उसमें उपयोग के अधिकार को अर्जित करने के अपने आशय की घोषणा करती है ;

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति, उस तारीख से, जिसको भारत के राजपत्र में यथाप्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर, उसमें उपयोग के या भूमि के नीचे पाइपलाइन बिछाने के अधिकार का अर्जन करने के संबंध में लिखित रूप में आक्षेप, श्री ए. आर. चौधरी, सक्षम प्राधिकारी, मुन्द्रा-भटिंडा अपरिष्कृत तेल पाइपलाइन, पंजाब रिफाइनरी परियोजना, गुरुगोबिन्दसिंह रिफाइनरीज लिमिटेड (हिन्दुस्तान पेट्रोलियम कॉरपोरेशन लिमिटेड की समनुषंगी), एल.पी.जी. वॉटलिंग प्लांट, हिन्दुस्तान पेट्रोलियम कॉरपोरेशन लिमिटेड, भगत की कोठी, जोधपुर 342005 को कर सकता है ;

अनुसूची

तहसील: जोधपुर

जिला: जोधपुर

राज्य: राजस्थान

गाँव का नाम	सर्वेक्षण नं.	हिरसा क्रमांक	ROU क्षेत्रफल (FMB)		
			हैक्टर	एयर	वर्ग.मी.
1	2	3	4		
कैरू	1236		0	98	16
	1228		0	00	54
	1233		0	15	02
	1234		0	28	00
	1235		0	32	23
	1170	रोड जोधपुर जैसलमेर (स्टेट हाईवे-5)	0	06	38
	812	सरकारी भूमि	17	19	71
	857	रास्ता	0	04	00
	801	सरकारी भूमि	0	23	60
	800	नाला	0	14	60

[फा. सं. 31015/20/2001-ओ.आर.-II]

हरीश कुमार, अवर सचिव

New Delhi, the 28th September, 2001

S. O. 2654.—Whereas it appears to the Central Government that it is necessary in the public interest, that for the transportation of crude oil from Crude Oil Terminal (COT) at Mundra Port in the State of Gujarat to Bhatinda in the State of Punjab, through Mundra - Bhatinda pipeline, a pipeline should be laid by Guru GobindSingh Refineries Limited (A subsidiary of Hindustan Petroleum Corporation Ltd.);

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user (ROU) in the land described under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification ;

Now, therefore, in exercise of the powers conferred by ~~Sub-Section~~ (1) of the section 3 of the Petroleum and Minerals Pipeline (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein ;

Any person interested in the land described in the said schedule may within twenty one days from the date on which the copies of this notification, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein or laying pipeline under the land to Shri A.R. CHAUDHARY, Competent Authority, Mundra - Bhatinda Crude Oil Pipeline, Punjab Refinery Project, Guru GobindSingh Refineries Limited (A subsidiary of Hindustan Petroleum Corporation Ltd.) , L.P.G. Bottling Plant, H.P.C.I., † Bhagat Ki Kothi, Jodhpur 342 005.

SCHEDULE

Tahsil : Jodhpur		District : Jodhpur		State : Rajasthan		
Name of Village	Survey No.	Part If Any	ROU Area (FMB)			
			Hect	Are	Sq.mt	
1	2	3	4			
KERU	1236		0	98	16	
	1228		0	00	54	
	1233		0	15	02	
	1234		0	28	00	
	1235		0	32	23	
	1170	Road Jodhpur-Jaisalmer SH-5	0	06	38	
	812	Govt. Land	17	19	71	
	857	Road	0	04	00	
	801	Govt. Land	0	23	60	
	800	Nala	0	14	60	

[No. R-31015/20/2001 OR-II]
HARISH KUMAR, Under Secy.

नई दिल्ली, 28 सितम्बर, 2001

का. आ. 2655.— केन्द्रीय सरकार को ऐसा प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में मुन्द्रा पत्तन स्थित अपरिष्कृत तेल संस्थापन (सी.ओ.टी.) पंजाब राज्य में भटिंडा तक मुन्द्रा-भटिंडा पाइपलाइन से होकर अपरिष्कृत तेल के परिवहन के लिए एक पाइपलाइन गुरुगोबिन्दसिंह रिफाइनरीज लिमिटेड (हिन्दुस्तान पेट्रोलियम कॉरपोरेशन लिमिटेड की समनुषंगी) द्वारा बिछाई जानी चाहिए ;

और केन्द्रीय सरकार को यह प्रतीत होता है कि उक्त पाइपलाइन बिछाने के प्रयोजन के लिए वर्णित भूमि में जिसके भीतर उक्त पाइपलाइन बिछाए जाने का प्रस्ताव है और जो इस अधिसूचना से उपाबद्ध अनुसूची में वर्णित है, के उपयोग का अधिकार अर्जित करना आवश्यक है ;

अतः अब केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उसमें उपयोग के अधिकार को अर्जित करने के अपने आशय की घोषणा करती है ;

उक्त अनुसूची में वर्णित भूमि में हितबद्ध कोई व्यक्ति, उस तारीख से, जिसको भारत के राजपत्र में यथाप्रकाशित इस अधिसूचना की प्रतियां साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस दिन के भीतर, उसमें उपयोग के या भूमि के भीतर पाइपलाइन बिछाने के अधिकार के अर्जन के लिए लिखित रूप में, श्री ए. आर. चौधरी, सक्षम प्राधिकारी, मुन्द्रा-भटिंडा अपरिष्कृत तेल पाइपलाइन, पंजाब रिफाइनरी परियोजना, गुरुगोबिन्दसिंह रिफाइनरीज लिमिटेड (हिन्दुस्तान पेट्रोलियम कॉरपोरेशन लिमिटेड की समनुषंगी), एल.पी.जी. बॉटलिंग प्लांट, हिन्दुस्तान पेट्रोलियम कॉरपोरेशन लिमिटेड, भगत की कोठी, जोधपुर 342005 को आक्षेप कर सकेगा ;

अनुसूची

तहसील : जालोर		जिला : जालोर	राज्य : राजस्थान	
गाँव का नाम	सर्वेक्षण नं.	हिस्सा क्रमांक	ROU क्षेत्रफल	
			हेक्टर	एयर
1	2	3	4	
आलासन	544		0	24
	545		0	18
	551		0	17
	552		0	22
	553		0	09
	533	कार्ट ट्रैक खेत से खेत सरकारी भूमि	0	01
	532		0	21
	531		0	01
	562		0	19
	563		0	07
	564		0	32
	568		0	04
	569		0	14
	570		0	02
	571	कार्ट ट्रैक सरकारी भूमि	0	01
	485		0	06
	484		0	66
	481	कार्ट ट्रैक खेत से खेत सरकारी भूमि	0	02
	449		0	01
	448		0	47
	447		0	13
	440		0	05
	442		0	18
	445		0	23
	444		0	06
	435		0	07
	431	गौचर सरकारी भूमि	0	49
	1011	431, कार्ट ट्रैक सरकारी भूमि	0	04
	1012	431, गौचर सरकारी भूमि	0	36
	415		0	44
	243	कार्ट ट्रैक खेत से खेत सरकारी भूमि	0	02
	334		0	54
	251		0	17
	252	कार्ट ट्रैक खेत से खेत सरकारी भूमि	0	02
	255		0	48
	321		0	14
	295	कार्ट ट्रैक सरकारी भूमि	0	02
	262		0	28

तहसील : जालोर		जिला : जालोर	राज्य : राजस्थान	
गाँव का नाम	सर्वेक्षण नं.	हिस्सा क्रमांक	ROU क्षेत्रफल	
			हेक्टर	एयर
1	2	3	4	
आलासन	1057	262	0	19
	266		0	18
	269		0	16
	268		0	03
	267		0	01
	272		0	04
	275		0	36
	273		0	01
	293		0	09
	292		0	03
	277	गै. मु. रास्ता	0	02
	278		0	34
	228	रोड सरकारी भूमि	0	01
	1967		0	04
	1962		0	07
	1963		0	15
	1964		0	20
	1965		0	15
	1966		0	16
	1879		0	36
गोल (उम्मेदाबाद)	1880		0	12
	1878		0	11
	1877		0	06
	1875		0	13
	1873	रोड उम्मेदाबाद से केशवाना	0	04
	1871		0	10
	1870		0	20
	1869	2028	0	03
	1869		0	22
	1868		0	26
	1867		0	04
कतरान	13		0	77
	18		0	41
	21		0	37
	25	कार्ट ट्रैक सरकारी भूमि	0	02
	26		0	04
	27		0	02
	37		0	33
	45		0	12
	52	ओरण सरकारी भूमि	0	42

तहसील : जालौर		जिला : जालौर	राज्य : राजस्थान	
गाँव का नाम	सर्वेक्षण नं.	हिस्सा क्रमांक	ROU क्षेत्रफल	
			हेक्टर	एयर
1	2	3	4	
कतवासन	51	औरण सरकारी भूमि	0	10
	50		0	55
	72		0	32
	75		0	06
केशवाना	113		0	34
	111		0	32
	110		0	50
	109		0	03
ऐलाना	2843	कार्ट ट्रैक खेत से खेत सरकारी भूमि	0	28
	2878		0	36
	2879		0	03
	2880		0	40
	2910		0	33
	2911		0	38
	2917		0	13
	2914		0	02
	2916		0	02
	2953		0	20
	2952		0	02
	2951		0	02
	2921		0	22
	2947		0	30
	2944		0	02
	2943		0	16
	2940		0	01
	2939		0	20
	2963		0	11
	2752		0	55
	2747		0	16
	2748		0	67
	2749		0	46
डांगरा	959	नदी सरकारी भूमि	0	18
	887	नदी सरकारी भूमि	0	16
	727	गाँवर सरकारी भूमि	0	12
	726		0	03
	725		0	15
	728		0	15
	731		0	05
	732	कार्ट ट्रैक खेत से खेत सरकारी भूमि	0	01
	735		0	06

तहसील : जालौर		जिला : जालौर	राज्य : राजस्थान	
गाँव का नाम	सर्वेक्षण नं.	हिस्सा क्रमांक	ROU क्षेत्रफल	
			हेक्टर	एयर
1	2	3	4	
डांगरा	733		0	05
	868		0	01
	742		0	16
	850	कार्ट ट्रैक खेत से खेत सरकारी भूमि	0	16
	867		0	01
	866		0	05
	865		0	08
	860		0	37
	859	कार्ट ट्रैक सरकारी भूमि	0	01
	857		0	03
	746		0	34
	745		0	03
	751		0	13
	754		0	07
	755		0	25
	824		0	38
	830		0	02
	820		0	20
	812		0	12
	811	कार्ट ट्रैक खेत से खेत सरकारी भूमि	0	02
	784		0	53
	785		0	02
	786		0	07
	783	ओरण सरकारी भूमि	0	07
	551	कार्ट ट्रैक डांगरा से मांडवला सरकारी भूमि	0	05
	560		0	07
	557		0	17
	556		0	20
	555		0	21
	543		0	01
	552		0	42
	544		0	41
	549		0	30
	532	ओरण सरकारी भूमि	0	03
रहुवा	377	कार्ट ट्रैक सरकारी भूमि	0	07
	382		0	16
	404		0	20
	405		0	14
	403		0	23
	402		0	08

तहसील : जालौर		जिला : जालौर	राज्य : राजस्थान	
गाँव का नाम	सर्वेक्षण नं.	हिस्सा क्रमांक	ROU क्षेत्रफल	
			हेक्टर	एयर
1	2	3	4	
रदुजा	425	कार्ट ट्रैक सरकारी भूमि	0	02
	440		0	17
	439		0	01
	438		0	16
	436		0	27
	446		0	60
	433	कार्ट ट्रैक डांगरा से खेत सरकारी भूमि	0	02
	427		0	15
	341	आसफाल्ट रोड स्टेट हाईवे-15 जालौर से मोक्त	0	06
	306		0	42
	309		0	05
	315		0	01
	308		0	16
	307		0	30
	317		0	18
	318	कार्ट ट्रैक सरकारी भूमि	0	02
	319	कार्ट ट्रैक सरकारी भूमि	0	01
	320		0	13
	321		0	16
	322		0	42
	301	ओरण सरकारी भूमि	0	10
	300		0	42
आवंलोज	802	ओरण सरकारी भूमि	0	10
	801	ओरण सरकारी भूमि	0	41
	800	ओरण सरकारी भूमि	0	16
	777	रोड सा.नि.वि.	0	01
	757		0	59
	761	गौ. मु. बाड़ा सरकारी भूमि	0	20
	755		0	01
	751	गौवर सरकारी भूमि	0	01
	760	कार्ट ट्रैक आवंलोज से खेत सरकारी भूमि	0	02
	762	कार्ट ट्रैक सरकारी भूमि	0	01
	774		0	03
	763		0	40
	764		0	21
	748		0	32
	741		0	04
	744		0	42
	731	कार्ट ट्रैक खेत से खेत सरकारी भूमि	0	01
	685	ओरण सरकारी भूमि	0	26

तहसील : जालोर		जिला : जालोर	राज्य : राजस्थान	
गाँव का नाम	सर्वेक्षण नं.	हिस्सा क्रमांक	ROU क्षेत्रफल	
			हेक्टर	एयर
1	2	3	4	
आक्लोज	684	कट्टा देक सरकारी भूमि	0	51
	682		0	11
	680		0	01
	681		0	08
	667		0	05
	136		0	02
	324	रोड सरकारी भूमि	0	02
	325	रोड सरकारी भूमि	0	18
	326		0	33
	328		0	20
	329		0	21
	340		0	28
	341		0	03
	339		0	52
	334		0	02
	336		0	21
	353		0	08
	354		0	09
	352		0	18
	356		0	52
	396		0	40
	359		0	07
	364		0	03
	365		0	27
	390		0	40
	389		0	01
	385		0	01
	386		0	10
	377		0	30
थलुण्डा	445	480	0	11
	448		0	21
	457		0	72
	455		0	18
	456		0	35
	428		0	02
बालवाडा	429	रोड थलुण्डा से आक्लोज सरकारी भूमि	0	02
	1314		0	37
	864		0	44
	867		0	52
	852		0	52

तहसील : जालोर		जिला : जालोर	राज्य : राजस्थान	
गाँव का नाम	सर्वेक्षण नं.	हिस्सा क्रमांक	ROU क्षेत्रफल	
			हेक्टर	एयर
1	2	3	4	
बालवाडा	848		0	34
	847		0	28
	880	ओरण सरकारी भूमि	0	01
	814		0	26
	808	कार्ट ट्रैक खेत से खेत	0	01
	807	1766	0	30
	807	1767	0	08
	802		0	42
	801		0	01
	798		0	12
	746		0	66
	881	आसफाल्ट रोड बलवाडा से काटोडी	0	02
	130		0	18
	129		0	13
	125		0	28
	123		0	01
	122		0	30
	121		0	40
	1786	117	0	25
	115		0	50
	113		0	08
	34	1684	0	32
	110	कार्ट ट्रैक खेत से खेत	0	02
	105		0	22
	43		0	50
	42		0	01
	44		0	13
	46		0	28
	63		0	20
	62		0	23
	64		0	03
	61		0	06
	64	1705	0	25
	66	1772	0	03
	66	1771	0	16
	68		0	02
	67		0	13
	69		0	13
	70		0	01

तहसील : जालोर		ज़िला : जालोर	राज्य : राजस्थान	
गाँव का नाम	सर्वेक्षण नं.	हिस्सा क्रमांक	ROU क्षेत्रफल	
			हेक्टर	एयर
1	2	3	4	
वासन	309	गै. मु. गाँवर सरकारी भूमि	1	43
	308	गै. मु. गाँवर सरकारी भूमि	0	04
	305	मुडिया रोड वासन से बलवाडा	0	04
	298	गै. मु. गाँवर सरकारी भूमि	0	02

[फ़. सं. 31015/22/2001-ओ.आर-II]

हरीश कुमार, अवर सचिव

New Delhi, the 28th September, 2001

S. O. 2655.— Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of crude oil from Crude Oil Terminal (COT) at Mundra Port in the State of Gujarat to Bhatinda in the State of Punjab, through Mundra - Bhatinda pipeline, a pipeline should be laid by Guru GobindSingh Refineries Limited (A subsidiary of Hindustan Petroleum Corporation Ltd.);

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user (ROU) in the land ~~described~~ under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification ;

Now, therefore, in exercise of powers conferred by ~~Sub-Section~~ Section (1) of the section 3 of the Petroleum and Minerals Pipeline(Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein ;

Any person interested in the land described in the said Schedule may, within twenty one days from the date on which the copies of this notification, as published in the Gazette of India, are made available to the general public, object in writing to the acquisition of the right of user therein or laying pipeline under the land to Shri A.R. CHAUDHARY, Competent Authority, Mundra - Bhatinda Crude Oil Pipeline, Punjab Refinery Project, Guru GobindSingh Refineries Limited (A subsidiary of Hindustan Petroleum Corporation Ltd.), L.P.G. Bottling Plant, H.P.C.L. & Bhagat Ki Kothi, Jodhpur 342 005.

SCHEDULE

Tehsil Jalore

District Jalore

State Rajasthan

Name of Village	Survey No	Part if Any	ROU Area	
			Hect	Are
1	2	3	4	
ALASAN	544		0	24
	545		0	18
	551		0	17
	552		0	22
	553		0	09
	533	Cart Track Field to Field G.L.	0	01
	532		0	21
	531		0	01
	562		0	19
	563		0	07
	564		0	32
	568		0	04
	569		0	14
	570		0	02
	571	Cart Track G.L.	0	01
	485		0	06
	484		0	66
	481	Cart Track Field to Field G.L.	0	02
	449		0	01
	448		0	47
	447		0	13
	440		0	05
	442		0	18
	445		0	23
	444		0	06
	435		0	07
	431	GOCHAR G.L.	0	49
	1011	431 ; Cart Track G.L.	0	04
	1012	431 , GOCHAR G.L.	0	36
	415		0	44
	243	Cart Track Field to Field G.L.	0	02
	334		0	54
	251		0	17
	252	Cart Track Field to Field G.L.	0	02
	255		0	48
	321		0	14
	295	Cart Track G.L.	0	02
	262		0	28

Tehsil : Jalore

District : Jalore

State Rajasthan

Name of Village	Survey No.	Part if Any	ROU Area	
			Hect.	Are.
1	2	3	4	
ALASAN	1057	262	0	19
	266		0	18
	269		0	16
	268		0	03
	267		0	01
	272		0	04
	275		0	36
	273		0	01
	293		0	09
	292		0	03
	277	Cart Track G.M.	0	02
	278		0	34
	228	ROAD G.L.	0	01
GOL (Ummedabad)	1967		0	04
	1962		0	07
	1963		0	15
	1964		0	20
	1965		0	15
	1966		0	16
	1879		0	36
	1880		0	12
	1878		0	11
	1877		0	06
	1875		0	13
	1873	Road Ummedabad to Keshwana	0	04
	1871		0	10
	1870		0	20
KATRASAN	1869	2028	0	03
	1869		0	22
	1868		0	26
	1867		0	04
	13		0	77
	18		0	41
	21		0	37
	25	Cart Track G.L.	0	02
	26		0	04
	27		0	02
	37		0	33
	45		0	12
	52	Oran G.L.	0	42

Tehsil : Jalore

District : Jalore

State Rajasthan

Name of Village	Survey No.	Part if Any	ROU Area	
			Hect.	Are.
1	2	3	4	
KATRASAN	51	Oran G.L.	0	10
	50		0	55
	72		0	32
	75		0	06
KESHWANA	113		0	34
	111		0	32
	110		0	50
	109		0	03
ELANA	2843		0	28
	2878		0	36
	2879		0	03
	2880		0	40
	2910		0	33
	2911		0	38
	2917		0	13
	2914		0	02
	2916		0	02
	2953		0	20
	2952		0	02
	2951		0	02
	2921		0	22
	2947		0	30
	2944		0	02
	2943		0	16
	2940		0	01
	2939		0	20
	2963		0	11
	2752		0	55
DANGRA	2747	River G.L.	0	16
	2748	River G.L.	0	67
	2749	River G.L.	0	46
	959	River G.L.	0	18
	887	GOCHAR G L	0	16
	727		0	12
	726		0	03
	725		0	15
	728		0	15
	731		0	05
	732	Cart Track Field to Field G.L.	0	01
	735		0	06

Tehsil Jalore

District : Jalore

State Rajasthan

Name of Village	Survey No	Part if Any	ROU Area	
			Hect.	Are.
1	2	3	4	
DANGRA	733		0	05
	868		0	01
	742		0	16
	850	Cart Track Field to Field G L	0	16
	867		0	01
	866		0	05
	865		0	08
	860		0	37
	859	Cart Track G.L.	0	01
	857		0	03
	746		0	34
	745		0	03
	751		0	13
	754		0	07
	755		0	25
	824		0	38
	830		0	02
	820		0	20
	812		0	12
	811	Cart Track Field to Field G.L.	0	02
	784		0	53
	785		0	02
	786		0	07
	783	Oran G.L.	0	07
	551	Cart Track Dangra to Mandavla G.L	0	05
	560		0	07
	557		0	17
	556		0	20
	555		0	21
	543		0	01
	552		0	42
	544		0	41
	549		0	30
	532	Oran G.L.	0	03
RATUJA	377	Cart Track G L	0	07
	382		0	16
	404		0	20
	405		0	14
	403		0	23
	402		0	08

Tehsil : Jalore

District Jalore

State Rajasthan

Name of Village	Survey No	Part if Any	ROU Area	
			Hect	Are
1	2	3	4	
RATUJA	425	Cart Track G.L	0	02
	440		0	17
	439		0	01
	438		0	16
	436		0	27
	446		0	60
	433	Cart Track Dangra to Field G.L	0	02
	427		0	15
	341	Asphalted Road SH-15 Jalor to Mokalsar	0	06
	306		0	42
	309		0	05
	315		0	01
	308		0	16
	307		0	30
	317		0	18
	318	Cart Track G.L	0	02
	319	Cart Track G.L	0	01
	320		0	13
	321		0	16
	322		0	42
ANVLOJ	301	Oran G.L.	0	10
	300		0	42
	802	Oran G.L.	0	10
	801	Oran G.L.	0	41
	800	Oran G.L.	0	16
	777	ROAD P.W.D.	0	01
	757		0	59
	761	G.M. BARA G.L.	0	20
	755		0	01
	751	GOCHAR G.L	0	01
	760	Cart Track Anvloj to Field G.L.	0	02
	762	Cart Track G.L	0	01
	774		0	03
	763		0	40
	764		0	21
	748		0	32
	741		0	04
	744		0	42
	731	CT Field to Field G.L.	0	01
	685	Oran G.L.	0	26

Tehsil Jalore

District : Jalore

State Rajasthan

Name of Village	Survey No	Part if Any	ROU Area	
			Hect.	Are.
1	2	3	4	
ANVLOJ	684		0	51
	682		0	11
	680	Cart Track G.L	0	01
	681		0	08
	667		0	05
	136		0	02
	324	ROAD G.L.	0	02
	325	ROAD G.L.	0	18
	326		0	33
	328		0	20
	329		0	21
	340		0	28
	341		0	03
	339		0	52
	334		0	02
	336		0	21
	353		0	08
	354		0	09
	352		0	18
	356		0	52
	396		0	40
	359		0	07
	364		0	03
	365		0	27
	390		0	40
	389		0	01
	385		0	01
	386		0	10
	377		0	30
THALUNDA	445		0	11
	448	480	0	21
	457		0	72
	455		0	18
	456		0	35
	428		0	02
	429	Road Thalunda to Anvloj G.L.	0	02
BALWARA	1314		0	37
	864		0	44
	867		0	52
	852		0	52
	848		0	34
	847		0	28
	880	Oran G.L.	0	01

Tehsil : Jalore

District : Jalore

State : Rajasthan

Name of Village	Survey No.	Part if Any	ROU Area	
			Hect	Are.
1	2	3	4	
BALWARA	814		0	26
	808	Cart Track Field to Field	0	01
	807	1766	0	30
	807	1767	0	08
	802		0	42
	801		0	01
	798		0	12
	746		0	66
	881	Asphalted Road Balwada to Kathadi	0	02
	130		0	18
	129		0	13
	125		0	28
	123		0	01
	122		0	30
	121		0	40
	1786	117	0	25
	115		0	50
	113		0	08
	34	1684	0	32
	110	Cart Track Field to Field	0	02
	105		0	22
	43		0	50
	42		0	01
	44		0	13
	46		0	28
	63		0	20
	62		0	23
	64		0	03
	61		0	06
	64	1705	0	25
	66	1772	0	03
	66	1771	0	16
	68		0	02
	67		0	13
	69		0	13
	70		0	01
WASAN	309	GOCHAR G.L.	1	43
	308	GOCHAR G.L.	0	04
	305	Metal Road Wasan to Balwada	0	04
	298	GOCHAR G.L.	0	02

श्रम मंत्रालय

नई दिल्ली, 7 सितम्बर, 2001

का. अ. 2656.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कारपोरेशन बैंक के प्रबंधन के संयुक्त नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बेंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 06-9-2001 को प्राप्त हुआ था।

[सं. एल-12012/415/92-आई आर (बी-II)]

सी. गंगाधरण, श्रम सचिव

MINISTRY OF LABOUR

New Delhi, the 7th September, 2001

S.O. 2656.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Government Industrial Tribunal/Labour Court, Bangalore as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Corporation Bank and their workman, which was received by the Central Government on 6-9-2001.

[No. L-12012/415/92-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT "SHRAM SADAN", III MAIN, III CROSS, II PHASE, TUMKUR ROAD, YESHWANTHPUR, BANGALORE.

Dated : 31st August, 2001

PRESENT

Hon'ble Shri V. N. Kulkarni, B. Com., LLB, Presiding Officer,

CGIT-CUM-LABOUR COURT, BANGALORE

C. R. No. 23/93

I PARTY

The Secretary,
Karnataka Pradesh Banks Deposit
Collectors Federation,
H-5, 7th Floor, Manish Tower,
84, J.C. Road,
Bangalore-560002.
(Advocate Late Shri K. Dinakara
Holla)

II PARTY

The Chairman,
Corporation Bank,
Head Office,
Pundeshwar,
Mangalore-575001
(Advocate-Shri Pradhep S. Sawkar)

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/415/92-IR(B-II) dated 12th March, 1993 for adjudication on the following schedule

SCHEDULE

"Whether the action of the Management of Corporation Bank, Bangalore in terminating the services of Shri J. Rajendran, a Janata Deposit Collector is justified? If not, to what relief he is entitled to"

2948 GI/2001--10

2. The first party was Janata Deposit Collector to the Second Party. He was removed and therefore, Industrial Dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. This is the dispute raised by the Karnataka Pradesh Banks Deposit Collectors Federation.

5. The case of the first party in brief is as under :

6. The first party workman was employed as a Janata Deposit Collector at Robertsonpet, KGF branch since 8-6-79 and he became the member of the first party union. He was employed for mobilising deposits for the bank. He was paid monthly wages. His work was manual as well as clerical. The Federation has stated duties in para 1 of the Claim Statement.

7. It is the further case that he worked honestly and sincerely. During the beginning of January 1991, the manager of the bank instructed the officials of the concerned department not to issue fresh claim to the workman. The management wherein enquired and issued show cause notice. The first party workman was terminated from service. The action of the management is not correct. The workman has prayed to pass award in his favour.

8. The case of the Second Party in brief is as follows:

9. The reference is bad in law because the dispute is not maintainable. There is no cause and there is delay. The first party was not the employee of the Second Party and there was no relationship of master and servant.

10. In para 5 the details of the Janata Deposit Scheme is stated. The main contention of the bank is that there is no relationship of employer and employee. There was an agreement between the bank and the first party workman. The first party workman executed an agreement on 8-6-1979. He was not a regular employee and service conditions were not applicable to him. The first party workman was only an agent to collect the deposits.

11. It is further stated that on many occasions the first party workman failed to remit the amount collected by him on the next day. In para 12 specific instructions are stated. First party workman was directed to improve himself but he failed to do so. Public notice was issued and agency was terminated. The second party for these reasons and for many other reasons has prayed to reject the reference.

12. It is seen from the records that on behalf of the management MW1 was examined. It is also seen from the records that since many days the first party is not attending. It was informed that the counsel appearing for the first party workman died long back. Therefore, the matter was posted for evidence and even then the first party failed to appear to give evidence. Therefore arguments were heard. I have read the evidence of MW1 and perused the available documents.

13. I have read the recent decision of the Hon'ble Supreme Court of India, Indian Banks Association Vs. Workmen of Syndicate Bank and Others, the judgement dated 13th February, 2001.

14. MW1 has given evidence that the first party workman was a Pigmy Agent. Ex. M1 is the agreement. It is his further evidence that the first party workman was remitting short amounts and Ex. M2 is the report regarding short remittances. In his evidence Ex. M3 to Ex. M8 were marked. He has also stated that agency was cancelled because the workman was not remitting the full amount collected by him from the Customers.

15. On going through the Counter, first main contention of the management is that there is no relationship of employer and employee and the first party is not the workman. In view of the decision of the Hon'ble Supreme Court of India referred earlier, the first party is the workman. Now that point is clear.

16. In the instant case another contention of the management is that first party was not remitting full amount collected by him in the bank as per the agreement. There is no reason to discard the evidence of MW1 because the first party workman has not cross examined MW1 and not rebutted the documents marked in the evidence of MW1. In other words it is a fact that the first party was not remitting

full amount collected by him from the customer and therefore the management is right in terminating the agency under Ex. MW1.

17. The first party remained absent and has not proved anything to pass award in his favour. In view of this I am of the opinion that there is no merit in this reference and accordingly I pass the following Order.

ORDER

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed by me on 31st August, 2001).

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 7 सितम्बर, 2001

का.ग्रा. 2657.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार की 06-9-2001 को प्राप्त हुआ था।

[सं. एल-12012/212/2000-आई आर (बी-II)]

सी. गंगाधरण, प्रवर सचिव

New Delhi, the 7th September, 2001

S.O. 5657.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Kanpur as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Punjab National Bank and their workman, which was received by the Central Government on 6-9-2001.

[No. L-12012/212/2000-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE SRI R. P. PANDEY PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT SARVODYA NAGAR,
KANPUR

Industrial Dispute No. 1 of 2001

The President
PNB Employees Union
Gumti No. 5 Kanpur

AND

Punjab National Bank
Regional Manager
Punjab National Bank Regional Office
59/29 Birhana Road Kanpur.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its notification No. L-12012/212/2000/IR(B-II) dated 10th January, 2001, has referred the following dispute for adjudication to this Tribunal :—

“Whether the action of the management of Punjab National Bank in withdrawing the special pay of Sri P. K. Awasthi, A.L.P.M.O. with effect from 8-7-1999 is justified? If not to what relief he is entitled to and from what date?”

2. In this case after receipt of reference order registered notices were sent to the Union raising the dispute on behalf of the concerned workman Sri P. K. Awasthi, for filing the statement of claim. After receipt of notice one Vijai

Yadav, Deputy General Secretary of the Union appeared before the Tribunal and sought time vide his application dated 30-5-2001 for filing the statement of claim in the case. On the said application of the Union, the case was adjourned to 13-7-2001, but on the date fixed in the case neither the representative for the concerned workman appeared nor the statement of claim in the case was filed on his behalf. However, the case was further adjourned to 14-8-2001, but on that date too neither any one appeared in the case nor statement of claim was filed in the case.

3. Thus from the conduct and behaviour on the part of the representative of the Union as well as of the concerned workman it becomes abundantly clear that they are not interested in contesting the case any more. In view of it, the tribunal is left with no other option but to hold that the concerned workman is not entitled for any relief in pursuance of this reference for want of pleading and proof.

4. Reference is answered accordingly against the concerned workman.

R. P. PANDEY, Presiding Officer

नई दिल्ली, 7 सितम्बर, 2001

का.ग्रा. 2658.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार की 06-9-2001 को प्राप्त हुआ था।

[सं. एल-12012/55/98-आई आर (बी-II)]

सी. गंगाधरण, प्रवर सचिव

New Delhi, the 7th September, 2001

S.O. 2658.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Government Industrial Tribunal/Labour Court, Bangalore as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Vijaya Bank and their workman, which was received by the Central Government on 06-09-2001.

[No. L-12012/55/98-IR(B-II)]

C. GANGADHARAN, Under Secy

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 31st August, 2001

PRESENT :

Hon'ble Shri V. N. Kulkarni, B.Com., LL.B.,
Presiding Officer
CGIT-Cum-Labour Court.
Bangalore.

C.R. No. 102/98

I PARTY

The General Secretary,
Vijaya Bank Workers Organisation,
37/1, 1st Floor,
Car Street,
Ulsoor,
Bangalore.
(Represented by Shri Suresh Kamath)

II PARTY

The General Manager (P),
Vijaya Bank Head Office,
M G. Road,
Bangalore-560009.
(Advocate—Shri Pradeep S. Sawkar)

AWARD

The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/55/98-IR(B-II) dated 24th December, 1998 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the Management of Vijaya Bank in dismissing the services of Shri L. Sargapathi Yadav w.e.f. 22-2-95 is legal and justified? If not, to what relief the said workman is entitled?"

2. The first party was working with the second party. First party committed misconduct and he was dismissed from service therefore, Industrial Dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the first party in brief is as follows :

5. This dispute is raised on behalf of the Union.

6. First party was working from 18-9-1989 onwards. Charge sheet issued to him was not correct. He has given details of charges in para 2 of the Claim Statement. He was working as a sub staff member in the bank. It is stated by the workman that he met with an accident and due to fracture he remained absent and applied leave for a long period.

7. In para 5 and 6 also it is stated that he applied for leave and dates are also given and leave was on account of sickness. The management has not considered all this and issued chargesheet and conducted enquiry.

8. Regarding enquiry it is said that the enquiry is not correct. Charge is not proper. Punishment is excessive and the workman for these reasons and for some other reasons has prayed to pass award in his favour.

9. The case of the Second Party in brief is as under :

10. It is true that the first party workman joined the services of the bank on 23-1-1984 as temporary Peon and he was confirmed in 1984.

11. It is the main contention of the management that the first party workman was not punctual in duties and continuously was absent without obtaining leave or any information. In para 3 of the Counter it is stated that earlier chargesheet were given for unauthorised absence and many punishments were imposed.

12. It is also contended by the management that the workman had admitted all the above charges. Departmental enquiry was conducted and misconduct is proved. Regarding enquiry it is stated that the chargesheet is correct and full opportunity was given to the first party to defend himself. The enquiry report is correct. The first party workman remained unauthorised absence for long periods. Therefore the action of the management is correct. The management for these reasons and for some other reasons has prayed to reject the reference. Rejoinder is also filed contenting that the first party workman has applied leave.

13. It is seen from the record that on behalf of the management one witness MW1 is examined. The first party workman has not participated in the proceedings and has not cross examined by MW1. Various documents are marked in the evidence of MW1.

14. It is seen from the records that this Tribunal by its order dated 14th June, 2001 is held that the Domestic Enquiry is fair and proper. On 30th August I have heard both the counsels appearing for the parties and I have perused the records. The fact that the enquiry is held as fair and proper,

now we will have to see whether the punishment imposed is proper or is not correct.

15. It was argued by the learned counsel on behalf of the second party that the first party workman was a regular unauthorised absentee and on earlier occasions four chargesheets were issued for unauthorised absence and the workman admitted all the charges. Minor punishments were imposed and even after this the first party workman remained absent unauthorisedly and therefore, enquiry was conducted and on the basis of the enquiry report the management has rightly dismissed the workman.

16. In support of this argument he relied the following citations :

- (1) 1996 Lab IC 754(SC)
- (2) 2000(5) SCC 65
- (3) 1995 (1)LLJ 1065. (Karnataka)

17. I have read the above decision of High Court of Karnataka carefully. The learned counsel appearing for the management has not given other two citations but only gave notes and I have considered the same.

18. It is a fact that the first party has not given evidence before this Tribunal to explain the absence. Keeping in mind the principles held in the decision of High Court of Karnataka referred above and the fact that the misconduct is proved, I am of the opinion that ends of justice will meet if order of dismissal stands modified to one of termination. Because the order of dismissal in the given circumstances appear to be too harsh. This I have said because if order of dismissal is not modified to one of termination the workman will be deprived of few benefits which have accrued to him by virtue of his earlier service.

19. Accordingly I proceed to pass the following order :

ORDER

The reference is partly allowed. The order of dismissal is set aside and it stands modified to one of termination. This will only help the workman for few benefits if have accrued to him by virtue of his earlier service. No other benefits are given.

(Dictated to PA transcribed by her corrected and signed by me on 31st August, 2001.)

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 7 मितम्बर, 2001

का. भा. 2659.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-9-2001 को प्राप्त हुआ था।

[सं. एल-12012/151/98-आई आर (बी-II)]

सी. गंगाधरन, अव्वर सचिव

New Delhi, the 7th September, 2001

S.O. 2659.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Government Industrial Tribunal/Labour Court, Bangalore as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Vijaya Bank and their workman, which was received by the Central Government on 6-9-2001.

[No. L-12012/151/98-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 27th August, 2001

PRESENT :

Hon'ble Shri V. N. Kulkarni, B.Com., LL.B.,
Presiding Officer
CGIT-cum-Labour Court,
Bangalore.

C. R. No. 25/99

I PARTY

The Regional Secretary,
Vijaya Bank Workers Organisation,
Mangalore Region,
C/o Vijaya Bank Zonal Office,
Mangalore-575003.
(Represented by Shri Suresh Kamath, Treasurer)

II PARTY

The Deputy General Manager,
Vijaya Bank,
Zonal Office,
Vijaya Tower,
L.H. Hill Road,
Mangalore-575003.
(Advocate—Shri Pradeep Sawkar)

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012 151/98-IR(B-II) dated 8th March, 1999 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the Management of Vijaya Bank, Zonal Office, Mangalore, in terminating the services Smt. Girija, part time sweeper who has put in a long service of eight years from 1989 onwards to 1997 under the pretext that she was not recruited through employment exchange is justified? If not to what relief the same Smt. Girija is entitled?"

2. The first party was working with the Second Party. She was refused job therefore Industrial dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the first party in brief is as follows :

5. It is the case of the first party that Vijaya Bank is a Nationalised Bank and first party was working at Surathkal Branch from 1-4-89 to 5-8-87 and 1-11-97 to 30-11-97. She also worked at Pakshikere Branch from 2-12-95 continuously upto 30-8-97.

6. It is the further case of the first party that on 30-8-97 her services were terminated abruptly. The action of the management is not correct. She has cited some decisions in the application itself. First party for these reasons has prayed to pass award in her favour.

7. The case of the Second party in brief is as follows :

8. The main contention of the Second party is that she was taken on daily wages within the meaning of Clause 20.7 of the Bipartite Settlement and no right can confer either for continuation or for regular absorption automatically.

9. It is the further case of the management that she was engaged as Sweeper whenever regular employees used to be on leave. She has no right to claim any regularisation. Details of the conditions of the award staff is given in the Counter. First party gave representation and she said that she was working as Temporary Sweeper during the absence of regular sweeper. Judgement of the Hon'ble Supreme Court of India is also stated in the counter. Management for these reasons and for some other reasons has prayed to reject the reference.

10. It is further contented by the management that she

never worked continuously for more than 240 days in a year. It is prayed that reference be rejected.

11. It is seen from the records that on behalf of the management one witness Shri N. Viswanath Hegde is examined. His evidence is that the first party was working as temporary Part time Sweeper. He has given details showing that in the year 1989 who worked only for 127 days and again she worked for 23 days and she was paid Rs. 25 per day. It is also stated by him that on 30-12-95 her temporary engagement as part time Sweeper came to an end. Whenever there was work she has given work. He has also stated about Ex. M1, Ex. M2 and Ex. M3, MW1 is not cross examined as stated that no appointment order was given to her.

12. Against this we have the evidence of WW1. According to her evidence she worked on daily wage basis as Sweeper. First party in her cross examination has stated that she worked for 127 days from 1-4-89 to 5-8-89 and again she worked from 2-12-95 to 30-12-95 for 23 days. She also worked from 1-7-97 to 30-7-97 at Pakshikere Branch. She also worked from 1-8-97 to 30-8-97 at Pakshikere Branch. She categorically admits in her cross examination that it is true that she was working as Part time Sweeper and not a regular employee. She further says that she registered her name on 21-2-95 and before that her name was not registered in the Employment Exchange.

13. With the above cross examination, it is abundantly clear that she was given work of Sweeper whenever a regular staff was absent. She never worked for 240 days continuously. Absolutely there is no material to say that she worked continuously and she was a regular employee.

14. Admittedly she was a temporary Sweeper engaged on daily wages whenever the regular staff is to be on leave.

15. I have considered all the documents relied by the parties. Considering all this, I am of the opinion that there is no merit in this reference and accordingly I proceed to pass the following order :

ORDER

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed by me on 27th August, 2001.)

HON'BLE V. N. KULKARNI, Presiding Officer

नई दिल्ली, 7 सितम्बर, 2001

का.आ.2660.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/धर्म न्यायलय, कानपुर के पंचाट को प्रकाशित करती है जो केन्द्रीय सरकार की 6-9-2001 को प्राप्त हुआ था।

[सं.एल-12011/96/99-आई आर (बी II)]

सी. गंगाधरन, अव्वर सचिव

New Delhi, the 7th September, 2001

S.O. 2660.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Kanpur as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman which was received by the Central Government on 6-9-2001.

[No. L-12011/96/99-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE SRI R. P. PANDEY PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
CUM LABOUR COURT SARVODAYA NAGAR
KANPUR

Industrial Dispute No. 295 of 1999

In the matter of dispute between :

The General Secretary,
Central Bank Workers Organization (U.P.),
3/13 Mathura Nagar,
Aligarh U.P.

AND

The Regional Manager,
Central Bank of India,
Sanjay Place,
Regional Office,
Agra.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its notification No. L-12011/96/99 IR(B-II) dated 25-10-99, has referred the following dispute for adjudication to this tribunal:

Whether the action of the management of Central Bank of India in dismissing the services of Sri Ashok Kumar Mittal is legal and justified? If not to what relief the concerned workman is entitled?

2. In this case after considering the pleadings of the parties following preliminary issue was framed:

Whether the domestic inquiry conducted by the management was not fair and proper?

3. After considering the pleadings of the parties and evidence on record and after giving opportunity of hearing to both the parties, finding was recorded by this tribunal on the preliminary issue and it was held that full opportunity of hearing was given to the delinquent employee by the Inquiry Officer during the course of inquiry and inquiry was properly and fairly conducted in the case.

4. I have heard the auth. Representatives for the parties on the point of quantum of punishment also. Punishment of dismissal from service was imposed on the concerned workman vide order dated 24-5-94.

5. The authorised representative for the workman has argued that the punishment of dismissal from service imposed on the delinquent employee is disproportionate to the gravity of misconduct, hence a lesser punishment should be imposed on him by this tribunal in exercise of powers given to it under section 11-A of the Industrial Disputes Act, 1947. On the other hand the authorised representative for the management has argued that the concerned employee not only made forgery in the leave records of the bank while working as head cashier at Semra Branch of the bank but also took Rs. 5108.84 paisa being the amount of leave encashment for 30 days on 8-10-92. He has also argued that he was not entitled to avail the benefit of leave encashment of 30 days and also was not entitled to avail 12 days ordinary leave from 20-10-92 to 31-10-92 for availing LFC because only 14 days leave were in his credit. He argued that the concerned workman inflated the leave due of 14 days into 140 days by forging the leave record of Semra Branch of the bank with a view to take undue advantage by taking the amount of leave encashment of 30 days and by taking ordinary leave of 12 days for availing LFC when only 14 days leave was due to him. He has further argued that as the concerned workman was in fact holding a post in the service of the bank where the bank discharges the duties of a trustee of public money and such dishonest person has no place in the service of the bank. After going through the record of the case, I find force in the contention of the authorised representative for the bank.

6. The evidence on record shows that Sri Ashok Kumar Mittal the concerned workman joined Semra Branch on 19-3-92 as Head Cashier on promotion from Tamkauli Branch. When he came from Tamkauli Branch in the

leave record of that branch only 14 days ordinary leave was due to workman. Sri Mittal himself posted his leave record at Semra Branch and entered in his leave account in the leave register showing his ordinary leave to be 140 days whereas only 14 days leave was due to him. The record shows that in the year 1991 before being posted in Tamkauli Branch he had taken leave without pay because no leave was due to him. Thus Sri Mittal very well knew that no leave was due to him but he inflated his ordinary leave in the leave record from 14 to 140 days and deceitfully received Rs. 5108.84 paisa as amount of leave encashment for 30 days on 8-10-92. In addition to that he also availed 12 days ordinary leave from 20-10-92 to 31-10-92 for availing LFC although he did not avail LFC at all. This shows that he not only forged the leave record of Semra Branch of the bank by inflating his leave of 14 days into 140 days but also took Rs. 5108.84 paisa as the amount of encashment of leave for 30 days. Record shows that when this forgery made by him was detected and he was asked to surrender the amount of leave encashment he deposited the same after more than 3 months. This conduct of Sri Mittal the concerned workman goes to show that he could make forgery in the records to make monetary gain from the bank where he was employed. Only a man of absolute integrity can be kept in the service of bank to serve the public where the money of the public is deposited by the public with confidence that their money will be in the same hands.

7. Considering the aforesaid misconduct of the concerned workman, if the punishing authority came to the conclusion that this employee is not fit to be retained in the service of the bank and imposed the punishment of dismissal from service, I do not find any illegality in that order of punishment such punishment can not be held to be disproportionate to the gravity of misconduct because the misconduct committed by him appears to be of grave nature and warranted the punishment of dismissal from service.

8. The authorised representative for the management has argued that the concerned workman did not plead in his statement of claim that punishment of dismissal from service imposed upon him was disproportionate to the gravity of the misconduct, hence the plea raised by the authorised representative for the workman during the course of arguments should be rejected out right. There is no doubt that the workman did not plead in his statement of claim that punishment imposed on him was disproportionate to the gravity of misconduct. However, the arguments advanced by the authorised representative for the workman on the quantum of punishment have been considered by me and I do not find any justification for making interference with the punishment of dismissal from service imposed upon him.

9. In view of findings recorded on the preliminary issue and also in view of findings recorded by me on the quantum of punishment, I do not find any ground to interfere with the order of punishment passed against the concerned employee. I, therefore, hold that the action of the management of Central Bank of India in dismissing Sri Ashok Kumar Mittal from the service of the bank is legal and justified. Consequently the concerned workman is not entitled to get any relief in pursuance of this reference.

10. Reference is answered accordingly.

R. P. PANDEY, Presiding Officer

नई दिल्ली, 12 सितम्बर, 2001

का.ग्रा. 2661.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बदीडा के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-9-01 को प्राप्त हुआ था।

[सं. एल. 12011/54/2001-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 12th September, 2001

S.O. 2661.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-LC, Jaipur as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workman, which was received by the Central Government on 11-09-2001.

[No. L-12011/54/2001-IR(B-II)]

C. GANGADHARAN, Under Secy.

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,
जयपुर

आदेश संख्या एल-12011/54/2001 (आई. आर.) बी-II
(18-22-6/01)

प्रकरण संख्या : सी.जी.आई. टी. 41, 2001

द आरगेनाइजेशन सेक्रेटरी, बैंक ऑफ बड़ोदा कर्मचारी यूनियन
राजस्थान द्वारा बैंक ऑफ बड़ोदा डी-38 ए. अशोक मारी,
अहिंसा सॉल्वन सी-स्कीम जयपुर

—प्रार्थी यूनियन

बनाम

म्रांच मैनेजर बैंक बड़ोदा, भ्रानन्द भवन, संभार चन्द्र रोड,
जयपुर

उपस्थित :—

प्रार्थी यूनियन की ओर से

कोई नहीं

अप्रार्थी की ओर से

श्री पी. सी. सेठी

पंचाट दिनांक :—

20/8/2001

पंचाट

केन्द्रीय सरकार के द्वारा निम्न विवाद औद्योगिक विवाद अधिनियम, 1947 (जिसे बाद में अधिनियम, 1947 कहा गया है।) की धारा 10-की उपधारा (1) के खंड-घ के प्रावधानों के अन्तर्गत उक्त आदेश के जरिये न्याय निर्णयन हेतु प्रेषित किया गया :—

"Whether the action of the management of Bank of Baroda, Zonal office, Jaipur of withdrawing the payment of Telex Operator Allowance to Shri Akshay Kumar Jain posted at Zonal Office, Jaipur w.e.f. July, 1999 in violation of S. 9A of the ID Act, 1947 was justified? If not, what relief the workman is entitled to and from what date?"

निर्देश आदेश दिनांक 2/7/2001 को प्राप्त हुआ निदेश आदेश के अनुसार बैंक ऑफ बड़ोदा कर्मचारी यूनियन (जिसे बाद में यूनियन कहा गया है।) के संगठन सचिव के द्वारा क्लेम प्राप्ति के अन्दर 15 दिवस में क्लेम प्रस्तुत करना था, परन्तु क्लेम प्रस्तुत नहीं किया गया। इस पर यूनियन के संगठन सचिव को क्लेम प्रस्तुत करने हेतु नोटिस भेजा गया। नोटिस प्राप्त होने पर दिनांक 6/8/2001 को यूनियन की ओर से विनोद कुमार, सीनियर वार्डस प्रेसीडेंट उपस्थित आए व क्लेम प्रस्तुत करने हेतु अवसर चाहा। जिस पर दिनांक 20/8/91 को क्लेम प्रस्तुत करने हेतु तारीख नियत की गई।

आज यूनियन की ओर से न तो कोई उपस्थित है न क्लेम प्रस्तुत किया गया। विपक्षी की ओर से श्री पी.

सी. सेठी, अधिवक्ता उपस्थित है। यूनियन के द्वारा क्लेम प्रस्तुत न करने से ऐसा प्रकट होता है कि यूनियन को प्रकरण में कोई रुचि नहीं है, अतः विवाद रहित पंचाट पारित किया जाता है।

पंचाट की प्रतिलिपि केन्द्रीय सरकार को अधिनियम, 1947 की धारा 17 की उपधारा (1) के अन्तर्गत प्रकाश-
नाय प्रेषित की जाए।

ह०/

अपठनीय,

पीठासीन अधिकारी

नई दिल्ली, 12 सितम्बर, 2001

का.प्र. 2662.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार देना बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-9-2001 को प्राप्त हुआ था।

[सं. एल-12011/157/99-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 12th September, 2001

S.O. 2662.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-LC, Chennai as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Dena Bank and their workman, which was received by the Central Government on 11-09-2001.

[No. L-12011/157/99-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 14th August, 2001

PRESENT :

K. Karthikeyan, Presiding Officer.

Industrial Dispute No. 29/2001

(Tamil Nadu State Industrial Tribunal I.D. No. 23/2000)

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between Sri Arokia Anburai, S/o late C. Stanislaus and the Management of Dena Bank, Chennai.)

BETWEEN

The General Secretary, I Party/Claimant
Dena Bank Employees Union,
Chennai.

AND

The Regional Manager, II Party/Management
Dena Bank,
Chennai

APPEARANCE :

For the Claimant : M/s. Row & Reddy, Advocates.

For the Management : S/Sri M. Rajamanickam &
R. Rajesh Vivekananthan, Advocates.

The Government of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 (14 of 1947), have referred the concerned Industrial Dispute for adjudication vide Order No. L-12011/157/99-IR(B-II) dated 07-02-2000.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, where it was taken on file as I.D. No. 23/2000. When the matter was pending enquiry in that Tribunal, the Government of India, Ministry of Labour was pleased to order transfer of this case from that Tribunal to this Tribunal for adjudication. On receipt of records from that Tribunal, the case has been taken on file as I.D. No. 29/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 22-01-2001. On receipt of notice from this Tribunal, counsel on either side were present with their respective parties and prosecuted this case further.

This matter came up before me for final hearing on 03-07-2001, upon perusing the Claim Statement, Counter Statement, the other material papers on record, the documentary evidence let in on either side and upon hearing the arguments of learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following:—

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Government for adjudication by this Tribunal is as follows:—

"Whether the Management is justified in ordering Voluntary cessation of employment to late Shri C. Stanislaus? If not, is Shri Arokia Anburaj, S/o Stanislaus entitled for compassionate appointment in the services of the bank?"

2. The averments in the Claim Statement of the I Party/ Claimant Union are briefly as follows:—

The I Party, the General Secretary of Dena Bank Employees Union as Claimant (herein after referred to as Petitioner) has raised the dispute espousing the cause of the workman, late Sri C. Stanislaus and his son Sri Arokia Anburaj. The concerned workman Sri C. Stanislaus joined the service of Dena Bank (herein after referred to as Respondent) as a subordinate staff on 1-9-84. He did not report for work from 1-9-93. His wife Mrs. Lily Alphonsa gave a complaint to the police on 29-1-94 about her missing husband. She produced the copy of the FIR on 1-2-94 along with a letter informing the Respondent/Management that her husband Stanislaus was missing. On 9-7-94, the bank issued a notice asking the employee to report for work as he has been absenting himself for over 90 days and hence he will be deemed to have voluntarily retired from the services of the Respondent/Bank from 9-8-94. The wife of the workman Stanislaus came to know that her husband has expired on 15-10-1995. After obtaining a death certificate the son of late Stanislaus one Arokia Anburaj requested the bank on 5-2-96 to provide him employment under compassionate grounds. The bank rejected that request on two grounds that the said request for appointment on compassionate ground was not made within one year from the date of death of the workman Stanislaus and that the termination of workman Stanislaus was on account of voluntary cessation. The claim of compassionate appointment made by the son of the deceased workman on 5-2-96 is well within one year from the date of his father's death. The bank has settled the gratuity of the deceased on the ground that the employee had died and not on account of voluntary cessation of work. Hence the bank is acquitted from taking the stand that the employee had voluntarily retired from service. After the show cause notice dated 9-7-94, the bank had not separately issued any order voluntarily retiring the employee, which is a must, according to the Bipartite Settlement. The action of the Respondent/Bank in ordering voluntary cessation of employment to late C. Stanislaus is illegal, contrary to the admitted facts and having settled the employee's terminal benefits on the ground that he died in the course of his employment. So, Arokia Anburaj S/o C. Stanislaus is entitled to compassionate appointment. Such appointments are given on the basis of government guidelines. Hence the bank is not justified in denying employment to Sri Arokia Anburaj on compassionate

grounds. It is therefore, prayed that this Tribunal may be pleased to hold that the action of the Respondent/Bank in ordering voluntary cessation of employment to late C. Stanislaus is not justified and consequently direct the Respondent/Bank to provide employment to Sri Arokia Anburaj S/o late C. Stanislaus in the clerical cadre w.e.f. 5-2-96 i.e. the date of the demand for compassionate appointment with all consequential benefits.

3. The averments in the Counter Statement of the II Party/ Management, Dena Bank are briefly as follows:—

The petition filed by the Employees Union as the representative of one Mr. Arokia Anburaj is not maintainable in law on facts as the said Mr. Arokia Anburaj has never been an employee of the Respondent. As such the Petitioner, the employees union has no authority to describe him as a member of the union pertaining to the Respondent/Bank. Mr. Stanislaus who was working as cash peon in the Nungambakkam branch of the Respondent/Bank remained unauthorisedly absent from 1-1-93. He has not submitted applications for sanction of leave. He has not replied to the branch letters dated 8-11-93, 6-1-94 served on him by the branch at his then available address. In view of the continuous unauthorised absence of the said workman Stanislaus without prior sanction/information/leave at credit, the then Regional Authority has issued a notice dated 9-7-94 for voluntary abandonment from the bank's service. The fact that Mr. Stanislaus did not report for duty had been admitted by the Petitioner. Further, the wife of Mr. Stanislaus, Mrs. Lily Alphonsa has informed the Respondent by her letter dated 1-2-94 that her husband was missing from 8-9-93. She had also enclosed a copy of the FIR of the complaint she filed before the police in that connection. Stanislaus has been served with the notice of voluntary abandonment from the bank's service in terms of Bipartite Settlement governing the service conditions of award staff in banks. The said provision inter alia states that an employee can be served with a notice of voluntary abandonment from the bank's service after one month's notice, in case, if he does not report for duty after absenting himself for 90 days without prior sanction/intimation/leave at credit. As per the Bipartite Settlement any service of notice at the last available address in the bank records and such service tantamount to good service. The notice of voluntary abandonment from the bank service was sent to his residential address by the registered post with acknowledgement due, which was however, returned by the postal authorities with a remark "not known". As he had not reported for duties within the stipulated date i.e. on or before 7-8-1994, his name has been struck off from the Muster Roll of Respondent/Bank, Nungambakkam branch w.e.f. 9-8-94 as voluntarily abandoned/retired from the bank services in terms of the settlement in force. The Respondent had received the communication of Mrs. Lily Alphonsa only on 24-1-96 informing therein that her husband Mr. C. Stanislaus has been expired on 15-10-95 evidenced by death certificate issued by the Corporation of Madras on 27-11-95. Mr. C. Stanislaus has expired much after the date of his voluntary abandonment from bank's service. The request made by Mr. Arokia Anburaj S/o late Mr. C. Stanislaus to provide employment on the compassionate ground was not considered favourably by the bank. The services of Mr. C. Stanislaus has been terminated under the relevant provisions of voluntary abandonment from the bank's services in terms of Bipartite Settlement in force and the request for appointment on the compassionate ground has not been made within a period of one year. The settlement of terminal benefits of Mr. C. Stanislaus is nothing to do with the rejection of the claim of Mr. Arokia Anburaj for compassionate appointment. Hence, the Respondent/Bank's action was legal and as per the provisions of the settlement in force. Hence, the claim made by the Petitioner may be dismissed.

4. When the matter was taken up for enquiry, the counsel on either side marked the documents of the respective parties by consent as Exhibits W1 to W14 and M1 and M2. Both the parties have not let in any oral evidence. The learned counsel on either side have advanced their respective arguments.

5. The point for my consideration is—

"Whether the Management is justified in ordering Voluntary cessation of employment to late Shri C. Stanislaus? If not, is Shri Arokia Anburaj, S/o Stanislaus entitled for compassionate appointment in the services of the bank?"

Point :—

It is not disputed that Sri C. Stanislaus, who was employed as a sub-staff in the Respondent/Bank has not reported for duty from 1-9-93. It is admitted that the said workman is no more. It is also admitted that on 9-7-94, the Respondent/Bank issued a notice asking the employee to report for work as he has been absenting himself for over 90 days. The xerox copy of that notice sent by the Respondent/Bank to his village residential address is Ex. W3. In that notice itself, it is stated that the concerned employee had remained absent for work from 1-9-1993 without submitting any application for leave and he has not replied to the letters dated 8-11-93 and 6-1-94. It is also admitted that the wife of the concerned workman Stanislaus, Mrs. Lilly Alphonsa had given a complaint to the police, stating that her husband is missing from 8-9-93 and on the basis of the complaint given by her on 29-1-94 case under crime No. 27/94 was registered by Kalaiyar Kovil police under man missing. A xerox copy of that registered FIR is Ex. W1. Ex. W2 is the xerox copy of the letter sent by the wife of the concerned employee to the Manager of Respondent/Bank, Nungambakkam branch. It is admitted in that letter, that a letter dated 6-1-94 sent by the bank to her husband was received by her. It is stated in that letter that her husband was unwell both physically and mentally and when she took him to the church at Valayanpatti he was missing from 2.00 p.m. on 8-9-93 and inspite of her search made at many places, she couldn't locate him and no information about him was received and that she is in search of her husband for the past five months. This letter under Ex. W2 was written by her is dated 1-2-94. So from this, it is evident that the concerned employee Sri Stanislaus, who was working as a sub-staff in the Respondent/Bank of the Nungambakkam branch had absented unauthorisedly for work since 1-9-93 and inspite of the notice given by the Respondent/Bank dated 9-7-94 under Ex. W3, he did not report for duty at Nungambakkam branch within thirty days of that notice. Ex. W4 is the xerox copy of the letter dated 5-2-96 sent by T. Arokia Anburaj, S/o the concerned employee Sri Stanislaus. In that letter, he has informed the bank that his father had expired, but he has not stated in that letter as on what date his father had expired. In the Claim Statement, the Petitioner has stated that the wife of the concerned workman came to know that her husband had expired on 15-10-1995. Ex. W13 is the xerox copy of the death certificate issued by Corporation of Madras for the death of Sri Stanislaus. The place of death has been shown in that certificate as 55, Anna Street, Kakanji Nagar, Vyasarpadi, Chennai. Ex. W14 is the xerox copy of the legal heirship certificate issued by the Thasildhar. In that also it is stated that C. Stanislaus expired on 15-10-95 was residing at No. 55, Anna Street, Kakanji Nagar, Vyasarpadi, Madras. Ex. W7 is the xerox copy of the letter dated 28-2-98 sent by Arokia Anburaj S/o concerned workman Sri C. Stanislaus to the Respondent/Bank, Regional Authority, wherein he has given his residential address as Srinivasa Nagar, Ariyakudi Post, Karaikudi. In that letter he has stated that his father died in the road accident on 15-10-95 and his body was found in the Mortuary of the General Hospital, Chennai. This is quite contrary to what it is stated in Ex. W13 in respect of the place of death of the concerned workman Sri C. Stanislaus. Ex. W9 is the xerox copy of the letter dated 5-6-98 sent by the Respondent/Bank, Branch Manager to Arokia Anburaj, son of the deceased employee Sri C. Stanislaus. In that letter the address of the son of the deceased workman has been mentioned as 293, Shastri Nagar, Vyasarpadi Main Road 5th Street, Chennai. From this, it is seen that in October, 1995 as well as in February, 1998 the deceased workman Sri C. Stanislaus family was residing at Vyasarpadi, Madras. It is not disputed that the concerned workman Sri Stanislaus remained unauthorisedly absent for work from 1-9-1993 in the Respondent Nungambakkam branch. It is also seen from Ex. W2, letter sent by the wife of the concerned workman Sri Stanislaus that a letter dated 6-1-94 was sent by the Respondent/Bank to the residential address of the concerned workman at Chennai and the same was received by her. It is seen from Ex. W3 that one such letter was served on the residential address of the concerned workman, wherein the concerned workman was informed about his unauthorised absence for duty. So as per the provisions of Binartite Settlement, the bank has taken action by issuing notice under Ex. W3 and has held that his unauthorised absence for a continuous period exceeding ninety days from 01-09-1993 and for his not reporting for duty within thirty days from 09-07-94, it was deemed that the concerned workman have voluntarily

retired from service from 9-8-94 on his own will and accord and his name got struck off from the muster roll of the Respondent/Bank Nungambakkam branch with immediate effect. So under such circumstances, it cannot be said that the action of the Management of the Respondent/Bank in ordering voluntary cessation of employment of the deceased workman Sri C. Stanislaus is unjustified.

6. The son of the deceased workman C. Stanislaus has given a representation to the Respondent/Bank on 5-2-1996 for the first time requesting an appointment on compassionate ground. The xerox copy of that letter is Ex. W4. Ex. W5 is the reply given by the Respondent/Bank for the request made by the son of the deceased workman for an appointment on compassionate ground. In that letter it is clearly stated that because of the unauthorised absence of the concerned workman Stanislaus from 1-9-93 onwards he was treated as voluntarily retired from the service of the bank and his name was struck off from the muster roll w.e.f. 9-8-94 and that the scheme for appointment for dependent of deceased employee is extended to dependent of employees, who dies in harness and that the request for appointment under the scheme should have been received by the bank at the earliest, in any case, not later than one year from the date of death of the employee. Ex. W6 is the xerox copy of the another letter dated 3rd February, 1998 sent by the Respondent/Bank, Branch Manager to Arokia Anburaj son of the deceased workman. In that also it is stated that his request for compassionate appointment could not be considered since his father had not died in harness and the request for appointment has not been received by the bank within one year. No documentary evidence has been filed on the side of the Petitioner to show that the request for an appointment on compassionate ground made by the son of the deceased workman within one year of the date of death of the deceased workman was received by the bank in time. Hence the stand taken by the petitioner in this regard has not been substantiated. Admittedly the concerned employee Sri Stanislaus has not died in harness as per Ex. W13 death certificate, he was shown to have died on 15-10-95 long subsequent to the Management had treated his absence for duty as voluntarily retired from service on his own from 9-8-94. Further no evidence has been let in, in this case by the Petitioner Union in respect of a financial condition of the family of the deceased workman for providing an employment to one of the heirs of the deceased by the Respondent/Bank on compassionate ground. On the other hand it is seen from the plea in the Claim Statement itself that the terminal benefits of the deceased employee have been settled by the Respondent/Bank. Nothing has been stated in the Claim Statement about the economic condition of the family of the deceased workman to make a request for an appointment to the legal heir of the deceased workman on compassionate grounds. So, under such circumstances, it is seen that the Management is justified in ordering that Sri Arokia Anburaj, S/o C. Stanislaus is not entitled for compassionate appointment in the services of the bank. Thus, the point is answered accordingly.

7. In the result, an award is passed holding that the Management is justified in ordering voluntary cessation of employment to late Sri C. Stanislaus and Shri Arokia Anburaj, son of Stanislaus is not entitled for compassionate appointment in the services of the bank. No Cost.

(Dictated to the Stenographer, transcribed and typed by him corrected and pronounced by me in the open court on this day the 14th August, 2001.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :

On either side : None

DOCUMENTS MARKED :

For I Party/Claimant :

Ex. No.	Date	Description
W1	27-11-94	Xerox copy of the First Information Report.
W2	01-02-94	Xerox copy of the letter from Lily Alphonsa to the Management.
W3	09-07-94	Xerox copy of the notice from the Management. To Sri C. Stanislaus.

- W4 05-02-96 Xerox copy of letter from Shri Arok Anburaj to the Management.
- W5 23-01-98 Xerox copy of the letter from Asst. General Manager, Dena Bank to Branch Manager.
- W6 03-02-98 Xerox copy of the letter from the Management to Shri Arokia Anburaj.
- W7 28-02-98 Xerox copy of letter from Shri Arokia Anburaj to the Management.
- W8 03-06-98 Xerox copy of the letter from Asst. General Manager, Dena Bank to Branch Manager Nungambakkam, Chennai.
- W9 05-06-98 Xerox copy of the letter from the Management to Shri Arokia Anburaj.
- W10 24-07-98 Xerox copy of the dispute raised before the Assistant Labour Commissioner (Central) by the claimant Union.
- W11 09-09-98 Xerox copy of the Counter filed by the Respondent/Bank before the Assistant Labour Commissioner (Central).
- W12 April '94 Xerox copy of the SSLC mark sheet of Shri Arokia Anburaj.
- W13 27-11-95 Xerox copy of the death certificate of Sri C. Stanislaus issued by Corporation of Madras.
- W14 Nil Xerox copy of the legal heirship certificate of C. Stanislaus.

For the II Party/Management :

- | Ex. No. | Date | Description |
|---------|------------|--|
| M1 | 22-05-2000 | Xerox copy of the scheme for appointment of Dependents of deceased employees and dependents of employees retired on medical grounds. |
| M2 | Nil | Voluntary cessation of employment by the Employees--provision in the Settlement (Xerox copy of the two pages Nos. 7 & 8). |

नई दिल्ली, 12 सितम्बर, 2001

का. प्रा. 2663.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार देना बैंक के प्रबंधन के संबंध में निम्नलिखित औद्योगिक विवाद में कर्मचारियों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अस न्यायालय चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-9-2001 को प्राप्त हुआ था।

[सं. एल-12012/51/99-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 12th September, 2001

S.O. 2663.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby, publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Dena Bank and their workman, which was received by the Central Government on 11-9-2001.

[No. L-12012/51/99-IR(B-II)]

C. GANGADHARAN, Under Secy.

2948 GI/2001—11

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 14th August, 2001

PRESENT :

K. KARTHIKEYAN, Presiding Officer.

INDUSTRIAL DISPUTE NO. 132/2001

(Tamil Nadu State Industrial Tribunal I.D. No. 165/99) (In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the workman Sri S. R. Manickam and the Management of Dena Bank, Mumbai.)

BETWEEN

The General Secretary,
Dena Bank Employees Union,
Chennai.

.. I Party/Claimant

AND

The Chairman and Managing Director,
Dena Bank, H.O.
Mumbai.

II Party/Management.

APPEARANCE :

For the Claimant : M/s. Row and Reddy, Advocates.

For the Management : S/Sri M. Rajamanickam and R. Rajesh Vivekanathan Advocates.

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947), have referred the concerned Industrial Dispute for adjudication vide Order No. L-12012/51/99/IR(B-II) dated 10/12-6-1999 and 6/12-8-1999.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, where it was taken on file as I.D. No. 165/99. When the matter was pending enquiry in that Tribunal, the Govt. of India, Ministry of Labour was pleased to order transfer of this case from that Tribunal to this Tribunal for adjudication. On receipt of records from that Tribunal, the case has been taken on file as I.D. No. 132/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 1-2-2001. On receipt of notice from this Tribunal, counsel on either side present with their respective parties and prosecuted this case further.

This matter came up before me for final hearing on 3-7-2001, upon perusing the Claim Statement, Counter Statement, the other material papers on record, the documentary evidence let in on the side of the I Party/Claimant union and upon hearing the arguments of learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following :

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Government for adjudication by this Tribunal is as follows :—

“Whether the Management of Dena Bank is justified in imposing the punishment of reduction of pay by one stage in the scale of pay upon Sri S. R. Manickam, Data Entry Operator? If not, what relief is the concerned workman entitled to?”

2. The averments in the Claim Statement of the I Party/Claimant Union are briefly as follows :—

The General Secretary, Dena Bank Employees Union has raised this industrial dispute espousing the cause of the workman Sri S. R. Manickam employed as a Data Entry Operator in the II Party/Management/Dena Bank Thondiarpet Branch, Chennai. The I Party/Claimant Union (hereinafter referred to as Petitioner) has raised this dispute challenging the action of the II Party/Management/Dena Bank (hereinafter referred to as Respondent) in imposing the punishment against the

Workman Sri S.R. Manickam. The concerned employee was issued with show cause notice dated 21-4-1994 alleging that the cheques issued by him were dishonoured and returned with an endorsement "stop payment by drawer" and that when the payee demanded the payment the same was refused by him. The act of issuing cheques and withholding its payment is an offence under section 138 of Negotiable Instruments Act and also a breach of trust. The show cause memo also stated that the concerned employee had taken a loan of Rs. 10,000 on 15-10-1993 from Vasantra Investments and on the date of show cause memo a sum of Rs. 2,000 was repaid by cheque and that too after two returns. The employee issued two cheques without sufficient funds in his account and that repayment of loans to the lenders was not forthcoming and the employee was asked to submit his explanation. The employee did not submit any reply since the aforesaid instances relate to personal transaction and it has nothing to do with banking business. On 25-8-1994 a charge sheet was issued mentioning the said instances and asked the employee to submit a reply as the charges were serious in nature and an act prejudicial to the interest of the bank and breach of rules of the bank. The employee submitted a detailed explanation denying the charges. Not satisfied with the explanation, the bank conducted face of an enquiry. The Enquiry Officer found the employee guilty of all the charges and the Disciplinary Authority imposed a punishment of stoppage of three annual increments with cumulative effect on 17-2-1996. The employee did not file any appeal as the punishment cannot be given effect to, since the employee had reached the maximum in the time scale by then. On 20-2-1997, the Disciplinary Authority reopened the case suo moto and wanted to conduct further proceedings as he realised that the punishment imposed earlier could not be given effect to. The employee did not challenge the earlier punishment or the findings, as the same was not going to have any bearing. In fact, the punishment was imposed only after the personal hearing to the workman by the Disciplinary Authority. The employee protested against the further enquiry as the same is not contemplated under the Bipartite Settlement applicable to the award staff. However, the bank proceeded with the enquiry without any reply to the employee from the stage of personal hearing. The Disciplinary Authority imposed the punishment of reduction by two stages in the time scale with cumulative effect on 30-4-1997. The employee filed an appeal to the Appellate Authority on 8-5-1997. The Appellate Authority modified the punishment by imposing the punishment of reduction of pay by one stage in the scale of pay on 12-12-1997. Neither the Disciplinary Authority nor the Appellate Authority had taken note of the fact that the alleged charges were not established through evidence in the domestic enquiry and even assuming that the instances are proved, it is outside the course of banking business and certainly not a misconduct committed by the employee in the discharge of his duties. There is no provision in the Bipartite Settlement or Shastri Award enabling the Disciplinary Authority to reopen the case which was already concluded. In this case, the employee was imposed with stoppage of three annual increments by the Disciplinary Authority after the personal hearing. Reopening the enquiry from the stage of personal hearing on the ground that the punishment cannot be given effect to is not contemplated under the Bipartite Settlement. If the Tribunal comes to the conclusion that the Management has no power to review the punishment already imposed whether rightly or wrongly, then the punishment imposed under the reference should automatically be set aside. The cheque issued by the employee to Om Sakthi Travels and Vasantra Investments is in the nature of a customer issuing a cheque to an outsider and in case if there is bouncing of cheque, it is for the payee to proceed under section 138 of Negotiable Instrument Act against the person who issued the cheque. That cannot be quoted against the employee. Even assuming that the employee had borrowed in excess, it can be treated as a minor misconduct and the maximum punishment under the Shastri Award modified from time to time is only stoppage of one annual increment without cumulative effect for a period of six months. This is without prejudice to the contention of the Petitioner that no punishment can be imposed in this case. Hence this Hon'ble Court may be pleased to hold that the action of the bank in imposing the punishment of reduction of pay by one stage in the scale of pay upon Sri S. R. Manickam Data Entry Operator is not justified and consequently, direct the bank to release the amounts deducted pursuant to the illegal order of the bank in imposing the punishment and also direct the bank to release all consequential benefits with cost.

3. The averments in the Counter Statement of the II Party/Management are briefly as follows:—

As the concerned workman Sri S. R. Manickam had reached the maximum in the time scale of pay, the punishment could not be implemented and thereby the order of the Disciplinary Authority has become infructuous. Under such circumstances, keeping in view the gravity of the charges levelled and proved against the concerned employee Sri S.R. Manickam, modification in the punishment order was imposed by letter dated 20-2-1997. The Petitioner was given an opportunity to make his submissions to the modification of the punishment order. The concerned employee attended the personal hearing along with his Union Representative and appealed to set aside the punishment proposed. Though there is no explicit provision in the Bipartite Settlement to reopen the case suo moto, it does not prohibit the employer to modify the punishment, particularly when the punishment proposed earlier and order was not implementable. The punishment implemented subsequently was of less severe when compared to the punishment awarded. The modified punishment order is in line with the provision of Bipartite Settlement and there is no violation involved in respect of the punishment imposed. The charges have been adequately proved during the enquiry and the Disciplinary Authority has acted only on the basis of the findings of the report of the Enquiry Officer. The allegation of the Petitioner that the misconduct is outside the course of business and not committed by the employee in discharge of the duties will not hold good as the acts of misconduct includes incurring the debt by the employee which considered as excessive by the Management. Hence, the charge was in order. Modification of the punishment imposed only was ordered and not *denovo* enquiry. The concerned employee Sri S. R. Manickam was charged to have committed an act prejudicial to the interest of the bank which is a gross misconduct and the penalties listed out in the Bipartite Settlement includes the punishment imposed on the employee. Hence, the Hon'ble Tribunal may be pleased to dismiss the petition with cost.

4. When the matter was taken up for enquiry, documents were marked by consent of counsel on either side as Ex. W-1 to W-3. No document has been exhibited on the side of the Management. No oral evidence was let in on either side. The learned counsel on either side have advanced their respective arguments.

5. The point for my consideration is :—

"Whether the Management of Dena Bank is justified in imposing the punishment of reduction of pay by one stage in the scale of pay upon Shri S. R. Manickam, Data Entry Operator? If not, what relief is the concerned workman entitled to?"

Point :

The workman Sri S. R. Manickam, whose cause is espoused by the Petitioner's Union was working as a cashier at Madras Thondiarpet branch of the Respondent/Bank. He was issued a show cause notice dated 21-4-1994 and the xerox copy of the same is Ex. W1. The concerned workman was directed to show cause in writing within three days of the receipt of that notice as to why further proceedings need not be initiated against him. The concerned workman Sri S. R. Manickam has not submitted any explanation for the memo. So a charge sheet dated 25-8-1994 was issued to the concerned workman alleging that the cheques issued by him were dishonoured and returned with an endorsement 'stop payment by the drawer' and when that payee demanded payment, the same was refused by him. It is an offence under Section 138 of Negotiable Instrument Act and also a breach of rules of business of the bank. It is further alleged in the charge sheet that he took a loan of Rs. 10,000 on 15-10-93 from M/s. Vasantra Investments and had paid only an amount of Rs. 2,000 by cheque and that too after the return of the cheque twice and he also issued two cheques without sufficient funds in his account. Even though he was subsequently called to repay the money, he had not paid the same, which also amounts to an act of gross misconduct/ minor misconduct as per the provisions of Bipartite Settlement. The xerox copy of the said charge sheet is Ex. W2. As the reply submitted by the concerned employee was found to be not satisfactory, the Respondent/Management had decided to conduct an enquiry into the charges levelled against the concerned employee. For that an Enquiry Officer was appointed. The xerox copy of the order dated 9-1-1995 passed by the Disciplinary Authority for enquiry against the concerned

employee for the charges is Ex. W6. Ex. W5 is the xerox copy of the enquiry proceedings. Ex. W3 series are the xerox copies of Management exhibits relied by the Management during domestic enquiry. Ex. W4 series are the xerox copies of defence exhibits filed in the domestic enquiry. All these things were admitted by the Petitioner Union. It is alleged in para 4 of the Claim Statement filed by the Petitioner Union that the bank conducted farce of an enquiry. But it is not alleged in the Claim Statement that the concerned employee was not given sufficient opportunity to put forth his defence effectively and the domestic enquiry was not conducted in a fair and proper manner following the principles of natural justice. In para 6 of the Claim Statement, it is alleged that neither the Disciplinary Authority nor the Appellate Authority had taken note of the fact that the alleged charges were not established through evidence in the domestic enquiry. Ex. W7 is the xerox copy of the findings given by the Enquiry Officer dated 6-1-1996. The perusal of the enquiry proceedings Ex. W5 and findings of the Enquiry Officer Ex. W7 belies the contention of the Petitioner in the Claim Statement that the bank had conducted farce of an enquiry and the alleged charges were not established to evidence in the domestic enquiry. Ex. W3 series are the xerox copies of the exhibits filed by the Management during the domestic enquiry to substantiate the charges levelled against the concerned workman under the Charge Sheet Ex. W2. It is seen from Ex. W5 enquiry proceedings that the charge sheeted employee Sri S. R. Manickam was represented by the President of Dena Bank Employees Union as his defence representative. The charge sheeted employee and his defence representative have taken part in the entire proceedings of the domestic enquiry and have subscribed their signatures in all the pages of the enquiry proceedings Ex. W5. From this, it is evident that the Enquiry Officer had conducted the domestic enquiry in a fair and proper manner following the principles of natural justice. The witnesses examined on the side of the Management were cross-examined by the defence representative in detail. A perusal of the findings of the Enquiry Officer under Ex. W7 clearly show that he has given his findings about the charges levelled against the concerned employee after analysing both the oral and documentary evidence let in, in the domestic enquiry both the Management as well as the delinquent employee. He has given a finding that the first charge i.e. doing an act prejudicial to the interest of the bank as well as the second charge the breach of rule of the bank are proved and the third charge incurring debts to an extent considered by the Management as excessive has not been proved. From all these materials available in this case, it cannot be said that the bank had conducted a farce of an enquiry and the charges were not established through evidence in the domestic enquiry. The learned counsel for the Petitioner has not advanced an argument that the domestic enquiry conducted by the Respondent/Bank as farce of an enquiry and the charges levelled against the concerned employee has not been proved in the domestic enquiry.

6. On the basis of the findings given by the Enquiry Officer in Ex. W7, the bank/Management has sent a letter dated 24-1-1996 to the concerned employee Sri S. R. Manickam enclosing a copy of the report of the Enquiry Officer informing him that if he desires to make any representation to the Disciplinary Authority he can do so within fifteen days from the receipt of that letter. The xerox copy of that letter is Ex. W8. For that the concerned employee has submitted his reply dated 14-2-1996. Then the Disciplinary Authority had issued a memo dated 17-2-96 to the concerned employee mentioning the proposed punishment as stoppage of three annual increments with cumulative effect and also informing the concerned employee to make his submissions, if any, regarding the proposed punishment during the personal hearing fixed on 29-2-1996. The xerox copy of that memo is Ex. W9. Ex. W10 is the xerox copy of the proceedings of the personal hearing held by the Disciplinary Authority on 29-2-1996. From that it is seen that the concerned employee along with defence representative attended the personal hearing. It is also admitted that as per the memo dated 17-2-1996, the punishment of stoppage of three annual increments with cumulative effect was proposed and by a subsequent memo dated 29-2-1996 the same was confirmed after personal hearing held on 29-2-1996.

7. The Disciplinary Authority after coming to know that the said punishment is infructuous and cannot be imposed

for the reason that the concerned workman Sri S. R. Manickam has already reached the maximum in the time scale and he has no increment to earn except the stagnation increment, he issued a memo dated 20-2-1997 to the concerned employee modifying the orders of punishment dated 27-3-96 by imposing a punishment of reduction by two stages in time scale with cumulative effect. For that proposed punishment an opportunity was provided to the concerned employee by the Disciplinary Authority to make his submissions in the personal hearing on 8-3-1997. The xerox copy of the memo dated 20-2-1997 is Ex. W11. Ex. W12 is the minutes of the personal hearing held at the Regional Office by the Disciplinary Authority. It is seen from that document the concerned employee Sri S.R. Manickam attended the enquiry with his defence representative and made his submissions. Ex. W13 is the xerox copy of the Corrigendum dated 30-4-97 issued to the modification of the punishment issued earlier by the Disciplinary Authority to the concerned workman Sri S. R. Manickam. The modified punishment has been stated as reduction by two stages in the scale of pay i.e. reduction of basic pay from Rs. 5500 to Rs. 4875.

8. It is the contention of the learned counsel for the Petitioner that the charges levelled against the concerned workman are with regard to a totally private transaction of the concerned workman and the concerned employee did not file any appeal as the punishment did not give any effect since he reached the maximum in the time scale by then. But on 20-2-97 the Disciplinary Authority suo moto reopened the enquiry to conduct further proceedings as he realised that the punishment given earlier could not be given effect to. The further enquiry by the Disciplinary Authority and hence the employee protested against the further enquiry. The reason given in the memo under Ex. W11 issued by the Disciplinary Authority to the concerned employee is that the said punishment for stoppage of three annual increments with cumulative effect imposed on 27-3-1996 cannot be imposed as the concerned employee has already reached the maximum in the time scale and the Disciplinary Authority has imposed the punishment by an order dated 30-4-97 under Ex. W13 by imposing the punishment of reduction by two stages in the time scale with cumulative effect. He would further contend that even assuming that the employee had borrowed in excess, it can be treated as a minor misconduct and the maximum punishment under the Shastri Award for the same is only stoppage of one annual increment without cumulative effect for the period of six months. So, the action taken by the Management through Disciplinary Authority by modifying the punishment already imposed is without any authority, since he has no locus standi to re-open the case. Therefore, the action of the Disciplinary Authority in imposing the punishment of reduction of pay by one stage in the scale of pay upon the concerned employee Sri S.R. Manickam is unjustified and has got to be set aside and consequently, the Respondent/Bank has to be directed to release the amounts deducted pursuant to that order of punishment, with all consequential benefits.

9. The learned counsel for the Respondent/Bank would argue that though it amounts to outside borrowing the concerned employee happened to be the Respondent/Bank employee, it affected the image of the bank very much. Such act of misconduct of issuing cheques to a person to whom the concerned employee was due a huge amount, without sufficient funds in his account is nothing but affecting the image of the bank by the concerned employee. The Enquiry Officer in his findings has clearly stated two charges out of the three charges levelled against the concerned workman have been proved. So, on the basis of the findings of the Enquiry Officer, the Disciplinary Authority passed an order dated 27-3-1996 for imposing punishment of stoppage of three annual increments with cumulative effect. It is admitted that at that time he said workman Sri S.R. Manickam had already reached the maximum in the time scale and he has no increment to earn except the stagnation increment. So the said punishment became infructuous and could not be imposed. So the Disciplinary Authority having found that the punishment ordered could not be imposed had proposed to modify the punishment by imposing reduction by two stages in time scale with cumulative effect for which a memo was issued by him under Ex. W11, giving an opportunity to the concerned employee for a personal hearing. That was why the Disciplinary Authority had re-opened the case only to modify the punishment imposed earlier and later in the appeal, a lenient view has been taken by the

Disciplinary Authority and he has given a punishment of reduction by two stages in the scale of pay i.e. reduction of basic pay from Rs. 5500 to Rs. 4875. There is no bar for the Management or for the Disciplinary Authority to re-open after detecting the defect in the earlier order passed for punishment for the proved misconduct in the properly conducted domestic enquiry. So, it cannot be said that the action of the Management in imposing the punishment for reduction of pay by one stage in the scale of pay upon the concerned employee is unjustified.

10. A perusal of the entire materials by way of records available in this case, it is seen that the concerned employee has committed the misconduct as alleged in the charges levelled against him, as it is found by the Enquiry Officer in the domestic enquiry. So, it amounts to proved misconduct by the concerned employee. On the basis of the findings of the Enquiry Officer, the Disciplinary Authority has imposed a punishment for the proved misconduct and having found that the punishment has become inflexible on the date it was imposed, he has re-opened the enquiry for modifying the punishment and after giving due and proper opportunity to the concerned charge sheeted employee and after hearing his representation in the personal hearing, he had modified the punishment. There is no bar for the Disciplinary Authority to re-open the enquiry in respect of imposing punishment after detecting the defect in the earlier order. This is not the case wherein the Disciplinary Authority has imposed two punishments for a single proved misconduct. It is admitted that the modified punishment imposed by the Disciplinary Authority for the proved misconduct of the charge sheeted employee has been reduced by the Appellate Authority in the appeal preferred by the concerned employee Sri S.R. Manickam. So, from all these materials available in this case it cannot be said that the Management of Dena Bank is unjustified in imposing the punishment of reduction of pay by one stage in the scale of pay upon Sri S. R. Manickam, Data Entry Operator. So, the concerned workman is not entitled to any relief. Thus, the point is answered accordingly.

11. In the result, an award is passed holding that the Management of Dena Bank is justified in imposing the punishment of reduction of pay one stage in the scale of pay upon Sri S. R. Manickam, Data Entry Operator. Hence, the concerned workman is not entitled to any relief. No Cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 14th August, 2001.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :

On either side : None.

DOCUMENTS MARKED

For I Party/Claimant :

Ex. Date and Description.
No.

- W1 21-4-94 Xerox copy of show cause notice.
- W2 25-8-94 Xerox copy of the Charge Sheet.
- W3 Series (5)—Xerox copy of the Management exhibits.
- W4 Series (2)—Xerox copy of the Defence Exhibits.
- W5 25-3-1995 Xerox copy of the enquiry proceedings into charge sheet.
- W6 9-1-95 Xerox copy of the Enquiry Officer's report.
- W7 6-1-96 Xerox copy of the findings of Enquiry Officer into the charge sheet.
- W8 24-1-96 Xerox copy of the letter from the Management to the Petitioner.
- W9 17-2-96 Xerox copy of the Memorandum issued by the Disciplinary Authority to the Petitioner.
- W10 29-2-96 Xerox copy of the minutes of personal hearing held at the Regional Office.

W11 20-2-97 Xerox copy of the memorandum issued by the Disciplinary Authority to Sri S. R. Manickam.

W12 Nil Xerox copy of the minutes of personal hearing held at the Regional Office.

W13 30-4-97 Xerox copy of the letter from the Disciplinary Authority to the Petitioner.

For the II Party/Management : Nil.

नई दिल्ली, 12 सितम्बर, 2001

का.अ. 2664.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-9-2001 को प्राप्त हुआ था।

[सं. एल-12012/55/96-आई आर (बी-II)]

सी. गंगाधरन, अवसर सचिव

New Delhi, the 12th September, 2001

S.O. 2664.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-LC, Chennai as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Indian Overseas Bank and their workman, which was received by the Central Government on 11-9-2001.

[No. L-12012/55/96-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Tuesday, the 14th August, 2001

PRESENT :

K. Karthikeyan, Presiding Officer.

Industrial Dispute No. 430/2001

(Tamil Nadu State Industrial Tribunal I.D. No. 34/97)

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Claimant Union and the Management of Indian Overseas Bank, Chennai.]

BETWEEN

The General Secretary, Employees : I Party/Claimant
Indian Overseas Bank/Trade Union,
Chennai.

AND

The General Manager, II Party/Management.
Indian Overseas Bank,
Chennai.

APPEARANCE :

For the Claimant : Mr. K. V. Ananthakrishnan, Advocate.

For the Management : Sri S. Kanniah, Advocate.

The Govt. of India, Ministry of Labour in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of Industrial Dispute Act,

1947 (14 of 1947), have referred the concerned Industrial Dispute for adjudication vide Order No. L-12012/55/96/IR (B-II) dated 08/09-05-1997.

This reference has been made earlier to the Tamil Nadu State Industrial Tribunal, where it was taken on file as I.D. No. 34/97. When the matter was pending enquiry in that Tribunal, the Govt. of India, Ministry of Labour was pleased to order transfer of this case from that Tribunal to this Tribunal for adjudication. On receipt of records from that Tribunal, the case has been taken on file as I.D. No. 430/2001 and notices were sent to the counsel on record on either side, informing them about the transfer of this case to this Tribunal, with a direction to appear before this Tribunal on 26-02-2001. On receipt of notice from this Tribunal, the counsel on either side present with their respective parties and prosecuted this case further.

This matter came up before me for final hearing on 12-06-2001, upon perusing the Claim Statement, Counter Statement, the other material papers on record, the documentary evidence let in on the side of the I Party/Claimant Union and upon hearing the arguments of learned counsel on either side and this matter having stood over till this date for consideration, this Tribunal has passed the following:—

AWARD

The Industrial Dispute referred to in the above order of reference by the Central Govt. for adjudication by this Tribunal is as follows:—

"Whether the action of the Management of Indian Overseas Bank in imposing the punishment by reducing the basic pay to the next lower stage for a period of two years on Shri P. Raju, Record Keeper and withholding of two future increments without cumulative effect on Shri F. R. James Nelson, Clerk/Shroff of Central Office of Indian Overseas Bank is legal and justified? If not, to what relief they are entitled."

2. The averments in the Claim Statement of the I Party/Claimant Union are briefly as follows:—

Sri P. Raju, the workman joined the II Party/Management, Indian Overseas Bank (herein after referred to as Respondent) on 7-5-1970 as messenger. He is presently employed as a Record Keeper at Tiruvanniyur Branch, Madras. The workman Sri James Nelson joined the Respondent/Bank on 25-5-82. While both these workmen were at Central Office, they were suspended from service on 6-1-1994 on the alleged misconduct of unruly riotous violent behaviour alleged to have happened on 3-1-1994 within the Central Office premises. The charge sheet was issued on 17-2-1994. It is alleged in that charge sheet that on 3-1-94 at 7.00 p.m. these two employees trespassed into the Central Office premises and went to the Union office building belonging to majority union inside the Central Office and that Mr. James Nelson under influence of alcohol assaulted the inmates of the Union office bearers using unparliamentary words and tried to assault Sri S. Shanmuganathan, an office bearer of the recognized union. The charge sheet was issued by the Disciplinary Authority Sri S. Kandappan, who also acted as Enquiry Officer and conducted the enquiry. He gave his findings dated 18-6-94 that the charges levelled against the delinquent employees were proved. He gave a show cause notice dated 8-6-94 to Sri P. Raju proposing the punishment of reducing his basic pay to the next lower cadre for a period of two years and to James Nelson proposing the punishment of withholding two future increments without cumulative effect and entitled them for the usual salary and allowances during the period of suspension. The I Party/Claimant Union (herein after referred to as Petitioner) opposed the proposed punishment on the delinquent employees by the reply dated 24-6-94. Without considering and discussing any of the objections, the Disciplinary Authority by an order dated 1-7-1994 imposed the proposed punishment of reducing the increment and withdrawing the earlier stand also imposed further punishment that they are not eligible for their salary during the suspension period. The Disciplinary Authority has come to such conclusion because of the delinquent employees belonged to the minority union. Against the said order of punishment, the delinquent employees

preferred an appeal to the Appellate Authority, the Deputy General Manager. The Appellate Authority confirmed the punishment without considering the representation raised in that appeal. Against the order of punishment, the present industrial dispute has been raised. The staff co-operative office, the union office of the recognized union and a recreation room are all in the same premises having one main entrance. After the office hours, the delinquent employees had gone to the Co-operative Society in connection with the delegateship representation. They did not enter the union premises of the recognized union and did not pick up any quarrel. The concerned employees as staff and members of co-operative society have the right to enter the office premises in the course of their employment and therefore, it will not amount to trespass. The altercations alleged to have been happened between the delinquent employees and Sri Shanmuganathan has not been proved. The charge of alleged trespass has not been proved. Therefore, the findings of the Enquiry Officer on these grounds are mala fide and not based on evidence or material. The charge that the employee Mr. James Nelson was under the influence of alcohol is false. That charge has been made out only to support to the other charges of assault and riotous behaviour between two rival group of union leaders when serious dispute and discussions were going on regarding delegateship of co-operative society. The delinquent employees only questioning the control of the society by the majority union in a democratic way they were entitled to against their majority union for neglecting the minority union members from delegateship. This incident happened after office business hours without affecting the business transactions, cannot come under misconduct under Service rules. Hence, the charge memo is ab initio void. The Management put a complaint given by Shanmuganathan and issued the charge sheet against these employees and failed to take action against Shanmuganathan. The allegation of using unparliamentary words has not been proved in the enquiry by evidence. The charge that Mr. Raju physically tried to assault Mr. Shanmuganathan is false. The Security Officer categorically deposed in the enquiry that he did not witness any physical assault by the delinquent employee except that they were shouting at each other. The Enquiry Officer gave a wrong finding that the charge of assault has been proved. After one and half months after suspension, the charge sheet was given. The Disciplinary Authority and the Enquiry Officer rolled into one acted with prejudicial and biased manner. Issuing of the charge sheet by the same authority is against the principle of law. Therefore, the findings are perverse and liable to be set aside. The Enquiry Officer has acted in the biased manner. The Disciplinary Authority imposed double punishment of being denied salary or increment including notional increment during the period of suspension. Double punishment cannot be imposed for the same charges. On the doctrine of jeopardy, the punishment imposed by the Disciplinary Authority is illegal and has to be set aside. The Respondent has failed to consider the unblemished past service of the employees, while awarding punishment. The altercations between the two rival union activities after office hours cannot give the Management locus standi to issue charge sheet against the concerned employees for the alleged misbehaviour. The charges levelled do not have legal sanction either under law or under the Bipartite Settlement. Hence, the Tribunal may be passed an award setting aside the order of punishment.

3. The averments in the Counter Statement of the II Party/Management are briefly as follows:—

On 3-1-94 at about 7.00 p.m. in the night the concerned employees Sri P. Raju and F. R. James Nelson trespassed into the Central offices premises of the bank and picked up quarrel with the staff inside the office. They were fully drunk at that time and threatened to assault the inmates of the union office bearers. They also attempted to destroy the valuables which was located in the bank premises. Without any rhyme or reason, they picked up quarrel with the staff and used unparliamentary words degrading the decency and decorum and all standards of decent behaviour within office premises. Hence, they were charge sheeted as per the provision of Bipartite Settlement dated 14-12-1966. The Respondent/Bank has conducted an enquiry. The delinquent employees took part in the enquiry proceedings. The Enquiry Officer ultimately found them guilty of the charges. Hence, by an order dated 1-7-94 they were imposed with punishment. Against that they preferred an

appeal and the Appellate Authority, after careful consideration, has rejected their appeals and confirmed the orders of the Disciplinary Authority. Having aggrieved by the said action of the bank, the Claimant Union has raised this industrial dispute. The records of service of the delinquent employees in the Respondent Bank are not upto the mark. The delinquent employees were given sufficient opportunity to defend themselves before the Enquiry Officer and as well as before the Appellate Authority. The delinquent employee did not make any objection about the conduct of the enquiry at the appropriate stage. As the proved charges were of serious nature, the delinquent employees are not entitled to any salary or increment including notional increment during the period of suspension other than the subsistence allowance already paid to them. The evidence let in by the bank during enquiry proceedings have sufficiently proved against the delinquent employees. The delinquent employees have used unparliamentary words and the same was proved during the course of the enquiry and the enquiry was fair and proper. The delinquent employees were given sufficient opportunity to disprove the charges levelled against them. The punishment imposed on the delinquent employees for the proved misconduct is valid and in accordance with the clauses contained in the Bipartite Settlement. The same will not amount to double jeopardy. Under such circumstances, there is no merit in the case, hence the claim of the Petitioner Union may be dismissed.

4. When the matter was pending enquiry before the Tamil Nadu State Industrial Tribunal by the consent of the counsel on either side, Ex. W1 to W27 were marked. When the matter came up for enquiry before this Tribunal, no further evidence as oral and documentary was let in on either side. The learned counsel on either side advanced their respective arguments.

5. The point for my consideration is :—

"Whether the action of the Management of Indian Overseas Bank in imposing the punishment by reducing the basic pay to the next lower stage for a period of two years on Shri P. Raju, Record Keeper and withholding of two future increments without cumulative effect on Shri F.R. James Nelson, Clerk/Shroff of Central Office of Indian Overseas Bank is legal and justified? If not, to what relief they are entitled?"

Point :—

The workmen P. Raju and F.R. James Nelson concerned with this industrial dispute raised by the Indian Overseas Bank Employees Trade Union were issued charge sheets dated 17-2-1994 separately for their alleged misconduct. The xerox copy of the same are Ex. W6 and W9 respectively. It is stated in both the charge sheets that they have committed gross misconduct as per the provisions of the Bipartite Settlement dated 11-12-1966. Those charge sheets were issued to the delinquent employees, in pursuance of complaints given by two staff of the Respondent Bank by name Sri S. Shanmuganathan and R. Sampath Kumar dated 4-1-1994. They are Ex. W3 and W4 respectively. An officer of the industrial relation department of the Respondent Bank had conducted an investigation in respect of the allegations on the complaints given by those two persons and submitted his report. A xerox copy of the same is Ex. W1. In pursuance of the alleged incident, both these two workmen were placed under suspension by the Respondent Bank Management. The xerox copies of those suspension order dated 6-1-1994 issued to these concerned employees separately are Ex. W5 and W7. With regard to this incident the concerned employee Mr. Raju also has submitted a representation in writing dated 12-1-1994. The xerox copy of the same is Ex. W8. One of the complainants, Mr. Shanmuganathan, an office bearer of All India Overseas Bank Employees Union has preferred a police complaint in respect of the incident and a xerox copy of the complaint dated 3-1-1994 is Ex. W10. The concerned employee Mr. Raju had also moved the Court and got an anticipatory bail order. A xerox copy of that order dated 10-1-1994 is Ex. W11. It is alleged in the charge sheets given separately to the concerned employees under Ex. W6 and W9 that on 3-1-1994 at about 7.00 p.m. both of them trespassed in to the Central Office and went to the union office inside the Central Office premises and at that time

they were under the influence of alcohol started using abusive language within office premises and threatened initially to assault the inmates of the union office if they do not come out of union office and that they have also threatened to break the valuable bank property inside the union office and that they have picked up quarrel with the staff at that place and used unparliamentary words regarding the decency, the decorum and all standards of decent behaviour within the office premises, which is quite unbecoming of bank employees. It is further alleged in the charge sheet that the concerned employee Sri P. Raju abetted by the other employee Sri F. R. James Nelson committed nuisance in the office premises and physically caught hold of Sri Shanmuganathan, Shroff, Mount Road Branch and tried to assault him and when he avoided the physical blow, the concerned employee Sri Raju broke a tube light and used it to commit an offence against Sri S. Shanmuganathan and thereby they have committed acts of placing the employees of the bank in physical danger and also caused prejudice to the bank's interest as there was grave danger to the properties of the bank. An enquiry was conducted and enquiry proceedings Ex. W14 and W15 show that both the delinquent employees have taken part in the enquiry with the defence representatives. The Enquiry Officer has given his report with his findings under Ex. W20. Five witnesses on the side of the Management and one witness for the defence were examined. After perusing the oral evidence of witnesses on either side and also the documents filed on either side, and after analysing them, the Enquiry Officer has given his findings that all the five charges levelled against the charge sheeted employees have been proved and has given a conclusion in his report that both the charge sheeted employees have caused gross misconducts within the meaning of para 17.5 c, i and 1, para 17.5 d, g, j and 1 respectively of the Bipartite Settlement. It is the contention of the learned counsel for the Petitioner that in the domestic enquiry the Management has not proved all the charges against the concerned employees, and there are discrepancies in the statements of Management witnesses which show that the charge sheeted employees have not entered the union office, so the charge of trespass has not been proved. Further in this case, the Enquiry Officer is the Disciplinary Authority as well as the punishing authority. So, there cannot be any impartial enquiry but it is only a biased and perverse one. There is no direct evidence to the charge of drunkenness. There is no damage caused to the bank property. The Management witnesses have not mentioned anything in their evidence, with regard to the delinquent employees attempted to destroy the property of the bank and any damage has been caused to the property of the bank. The Security Officer as a witness has given evidence that no untoward incidence has been taken place. He has further argued that the punishment imposed by the Management for the alleged misconduct of the concerned employees are disproportionate and excessive and the Enquiry Officer has not prepared to accept the evidence given by the defence witness and the concerned employees were also not asked to give their statements in respect of this incident. So, the finding given by the Enquiry Officer is perverse. So, the action of the Management on the basis of the finding given by Enquiry Officer by imposing punishment as mentioned in this case have to be set aside.

6. The learned counsel for the Management would argue that on 3-1-1994 both the employees entered the office and have created a scene, so both of them were placed under suspension under order dated 6-1-1994, which are Exs. W5 and W7 respectively. From the reply given by the concerned employee Sri Raju dated 12-1-1994 marked as Ex. W8, it is seen that both these employees had a row with the said Shanmuganathan and Sampath in the premises. By this reply they admitted their presence at that point of time in the premises. For this incident the Union Treasurer Mr. Shanmuganathan has given a police complaint. The copy of the same is Ex. W10. If really no such incidence has been taken place, there was no necessity for the Treasurer of the Union Sri Shanmuganathan, to prefer a police complaint against these two employees. It cannot be said that it is a document created by him for the purpose of this case and no such incidence has been taken place. One of the delinquent employees Sri Raju, had moved the Sessions Court for anticipatory bail and the xerox copy of the order for anticipatory bail passed by the Sessions Court in favour of the employee Sri P. Raju is Ex. W11. Both the employees have given replies to the Disciplinary Authority on 4-3-94 as a total denial of the entire incident. The xerox copy of the same is Ex. W12 and W13. It is only a bald denial. It is for these delinquent employee to prove how they were happened

to be there at that time when they have no business to enter the union office at that time. The enquiry conducted by the Management was fair and proper and the penalty imposed by the Disciplinary Authority for the proved misconduct of these charge sheeted employees is quite proportionate to the gravity of the misconduct. So, it cannot be said that the action of the Management taken against these two employees by imposing the punishment as mentioned in this case is illegal and unjustified.

7. The perusal of the entire records go to show that there are sufficient evidence available in this case, as the evidence let in by the Management before the Enquiry Officer, for the Enquiry Officer to come to the conclusion that the charges levelled against the charge sheeted employee Sri P. Raju and F. R. James Nelson have been proved. So, the contention of the learned counsel for the Petitioner that the Management has not proved the charges with adequate legal evidence is incorrect and the findings of the Enquiry Officer is only perverse. On the other hand, it is seen from the Enquiry Officer's report that he has analysed the evidence let in on either side both oral and documentary and has come to the conclusion that there was sufficient reliable evidence to hold that the charges have been proved. So it cannot be said that the Enquiry Officer's finding is a perverse one i.e. without any evidence. Merely because the Enquiry Officer happens to be the Disciplinary Authority, who is the punishing authority cannot be said that he had acted in a partial manner. Further, the contention of the learned counsel for the Petitioner that there is no direct evidence for the alleged charge of drunkenness. But there are sufficient oral evidence through the Management witnesses that both the charge sheeted employees were under the influence of alcohol and they were in drunken stage and had created disturbance. So, from all these things it is seen that the argument advanced by the learned counsel for the Petitioner cannot be accepted as correct, while the arguments of the learned counsel for the Respondent have got some basis as material evidence in this case. Further, it is seen from the records that the proved misconduct of these two concerned employees are serious in nature to award punishment as mentioned in the order dated 1-7-1994 by the Disciplinary Authority and the punishments have been imposed by the Disciplinary Authority only as per the provisions in the Bipartite Settlement dated 14-12-1966. So it cannot be said that the punishment imposed by the Disciplinary Authority against the concerned employees were excessive and disproportionate to the gravity of the misconduct of those employees. So, under such circumstances, it can be concluded that the action of the Management of Indian Overseas Bank in imposing punishment by reducing the basic pay to the next lower stage for a period of two years on Sri P. Raju, Record Keeper and withholding of two future increments without cumulative effect on Sri F. R. James Nelson, Clerk/Shroff of Central Office of Indian Overseas Bank is legal and justified and the concerned employees are not entitled to any relief. Thus, the point is answered accordingly.

8. In the result, an award is passed holding that the action of the Management of Indian Overseas Bank in imposing the punishment by reducing the basic pay to the next lower stage for a period of two years on Sri P. Raju, Record Keeper and withholding of two future increments without cumulative effect on Sri F. R. James Nelson, Clerk/Shroff of Central Office of Indian Overseas Bank is legal and justified. Hence, the concerned workmen are not entitled to any relief. No cost.

(Dictated to the Stenographer, transcribed and typed by him, corrected and pronounced by me in the open court on this day the 14th August, 2001.)

K. KARTHIKEYAN, Presiding Officer

Witnesses Examined :

On either side : None.

DOCUMENTS MARKED :

For I Party/Workman :

Ex. No. Date Description

W1 Nil Xerox copy of the investigation report.

W2 3-1-94 Xerox copy of the Notes.

- W3 4-1-94 Xerox copy of the letter from Sri R. Sampathkumar to Sri R. M. Muthalappan.
- W4 4-1-94 Xerox copy of letter from S. Shanmuganathan to the Assistant General Manager.
- W5 6-1-94 Xerox copy of the suspension order of James Nelson.
- W6 17-2-94 Xerox copy of the charge sheet of James Nelson.
- W7 6-1-94 Xerox copy of the suspension order of Sri Raju.
- W8 12-1-94 Xerox copy of the reply given by Raju.
- W9 17-2-94 Xerox copy of the charge sheet of Sri Raju.
- W10 3-1-94 Xerox copy of the complaint given by S. Shanmuganathan.
- W11 10-1-94 Xerox copy of the anticipatory bail.
- W12 4-3-94 Xerox copy of reply for the charge sheet given by Sri James Nelson to the Management.
- W13 4-3-94 Xerox copy of reply for the charge sheet given by Sri Raju to the Management.
- W14 21-3-94 Xerox copy of the enquiry proceedings.
- W15 15-4-94 Xerox copy of the enquiry proceedings.
- W16 Nil Xerox copy of the submission of Management arguments by the Presenting Officer.
- W17 Nil Xerox copy of the submission of Defence arguments by the Defence Representative.
- W18 8-6-94 Xerox copy of the show cause notice to Sri James Nelson.
- W19 8-6-94 Xerox copy of the show cause notice to Sri Raju.
- W20 Nil Xerox copy of the enquiry findings.
- W21 24-6-94 Xerox copy of the letter from the Union to Disciplinary Authority.
- W22 1-7-94 Xerox copy of the suspension order of Sri James Nelson.
- W23 1-7-94 Xerox copy of the suspension order of Sri Raju.
- W24 11-7-94 Xerox copy of the transfer order to Sri Raju.
- W25 5-8-94 Xerox copy of the letter from Sri James Nelson to the Appellate Authority.
- W26 12-9-94 Xerox copy of the order of Appellate Authority in the case of Sri James Nelson.
- W27 12-9-94 Xerox copy of the order of Appellate Authority in the case of Sri Raju.

For the II Party/Management : Nil.

नई दिल्ली, 12 सितम्बर, 2001

का.आ. 2665.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, पटना के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-9-2001 को प्राप्त हुआ था।

[सं. एल-12012/199/98-आई आर (बी-II)]

सी. गंगाधरण, अवर सचिव

New Delhi, the 12th September, 2001

S.O. 2665.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Patna as shown in the annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workman, which was received by the Central Government on 11-09-2001.

[No. L-12012/199/98-IR(B-II)]

C. GANGADHARAN, Under Secy.

ANNEXURE

BEFORE THE PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PATNA

Reference No. 181 of 1999

Reference No. 6(c) of 2001

Management of UCO Bank, Patna and their workman Sri Shyam Kishore Pandey represented by UCO Bank Employees Association, Patna.

For the Management: Shri P. K. Chatterjee.

For the Workman: Sri B. Prasad, State Secretary, UCO Bank Employees Association, Patna.

PRESENT:

Sri S. K. Mishra, Presiding Officer, Industrial Tribunal, Patna.

AWARD

The 5th September, 2001

The Government of India in the Ministry of Labour by order No. 12012/199/98-IR(B-II) dated 14-5-1999 have referred the following industrial dispute between the Management of UCO Bank and their workman Sri Shyam Kishore Pandey as represented by UCO Bank Employees Association to the Industrial Tribunal-cum-Labour Court, Dhanbad (Bihar) for adjudication:—

"Whether Sh. Shyam Kishore Pandey has worked from 27-3-1992 to 5-4-1997? If yes and whether the action of the Management of UCO Bank, Patna in terminating his service w.e.f. 5-4-1997 is justified? If not, what relief the workman is entitled to?"

2. The Central Government by subsequent order No. 12012/199/98-IR(B-II) dated 23-11-2000 withdrew the proceedings in relation to the said industrial dispute from the Central Government Industrial Tribunal No. II Dhanbad and transferred it to this Tribunal for adjudication.

3. Both parties have filed their written statements in support of their respective cases. The case of the workman Sri Shyam Kishore Pandey as it appears from the written statement filed on his behalf in brief is that he was orally appointed by the Management of UCO Bank to discharge the duties of Peon at Sangrampur Branch w.e.f. 27-3-1992. The workman discharged his work upto 5-4-1997 continuously. In the evening of 5-4-1997 at 5 P.M. he was informed that his services were no longer required. The workman used to discharge his duties from 10 A.M. to 6 P.M. on every working day. He discharged the duties of a regular Peon. He worked from 27-3-1992 to 5-4-1997 continuously. Initially he used to receive wages at the rate of Rs. 12 per day which was subsequently raised to Rs. 35 per day. Prior to termination of his service the workman was neither given a notice nor pay in lieu of notice nor retrenchment compensation as per the provisions of Section 25F of the Industrial Disputes Act. The workman was not paid wages for Sundays, Holidays. No Bonus was also paid to him under the Payment of Bonus Act. After termination the workman approached the Management for his reinstatement but to no avail. The workman finding no other alternative approached the union to raise an industrial dispute and accordingly the union raised an industrial dispute before the A.L.C.(c). Patna who held several conciliation proceedings on different dates. The conciliation efforts ended in failure due to stub-born attitude of the Management and the Conciliation Officer submitted his failure report before the Ministry of Labour, Government of India. Ultimately the

Government of India has made the present Reference for adjudication. According to the workman the action of the Management in terminating his services without compliance of the mandatory provisions of Section 25F of the I.D. Act is illegal and unjustified. The Management also ignored the principles of 'equal pay for equal work' as per the provisions of Directive Principles of State Policy as contained in the Indian Constitution. The workman has therefore, prayed for his reinstatement in service w.e.f. 5-4-1997, for regularisation of his service as a Peon in the Bank's subordinate cadre and for payment of due wages for the period of his working.

4. The case of the Management as has been made out in its written statement in brief is that the workman had been engaged by the Manager of Sangrampur Branch, UCO Bank on casual basis for performing certain contingent nature of work. According to the Management the Branch Manager had no authority to make such engagement and hence, the engagement is void ab-initio. Ever since Nationalisation of the UCO Bank it has become 'State' within the meaning of Art. 12 of the Constitution of India and is obliged to function within the parameters of Arts. 14 and 16 of the Constitution of India in the matter of appointment. The prescribed procedure of recruitment was not followed. There was neither advertisement of the vacancy nor any requisition was sent to the local Employment Exchange before engagement. There was also no vacancy of Peon in the Branch. Since Sri Shyam Kishore Pandey had been engaged unconstitutionally and unauthorised, he can not maintain a legal right for continuation of such working in the guise of provisions of the I.D. Act. Further it has been pointed out that the Bank has been incurring heavy losses since last several years. The expenditure incurred over payment to unwanted and illegitimately engaged individuals comes to Rs. one crore approximately per year in Bihar alone. On 29-3-1997 the Zonal Manager of Bank issued a circular directing that there should not be any further engagement of casual workers excepting those who stood empanelled as casual workers. It was made clear in the circular that the Branch Manager/the Head Office who engages any casual worker disregarding this directive would personally be responsible for such engagement. The said direction was reiterated by the General Manager of the Bank in his circular dated 28-4-1997. The xerox copies of letter of the Dy. General Manager of the Bank dated 31-3-1997, Xerox copy of the letter of the Zonal Manager dated 29-3-1997 and the xerox copy of the letter of the General Manager dated 28-4-1997 have been annexed to the written statement but the Management took no step for marking them as Exhibits in the present case.

5. It is denied by the Management that Sri Shyam Kishore Pandey had been engaged to perform the duties of Peon. Whatever was paid to the workman was in consideration of doing casual and contingent nature of job. It is denied that Sri Pandey was maintaining a time schedule in attendance. He was not signing on the Muster-roll. It is said that Sri Pandey was never terminated since there was no formal appointment. According to the Management the workman is not entitled for reinstatement or for payment of back wages or for regularisation of his service as a Peon.

6. A rejoinder to the written statement of the Management has also been filed on behalf of the workman. The case of the workman has been reiterated. According to the workman the basic questions for adjudication is whether Sri Pandey is a workman or not within the definition of Section 2(s) of the I.D. Act, whether the Management Bank is an 'industry' as per Section 2(j) of the I.D. Act and whether the termination of Sri Pandey is covered u/s 2(oo) of the I.D. Act. Once the Reference is made for adjudication, the dispute is to be decided within the conceptual frame work of the I.D. Act. The term authorised/unauthorised/regular/irregular are alien to Industrial Disputes Act. The Bank being incorporated under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 is a State within the meaning of Art. 12 of the Constitution of India and so it is expected to behave like a model and enlightened Employer. The question whether the Bank is incurring loss is irrelevant. It has nothing to do in the present case. It was the duty of the Management being a State to enter the name of the workman in the Muster Roll and to pay him wages equal to that of his counter part performing similar nature of duties. It was not the duty of the workman to snatch the attendance register, to enter his name and to sign in it.

7. The following issues arise for determination :—

- (i) Whether Sri Shyam Kishore Pandey has worked from 27-3-1992 to 5-4-1997?
- (ii) If yes, whether the action of the Management of the UCO Bank, Patna in terminating his service w.e.f. 5-4-1997 is justified and if not, to what relief he is entitled to?

FINDINGS

8. As all the issues are interconnected the same are taken up together for determination for sake of convenience.

9. The Management has examined only one witness namely Sri Bhupendra Kumar (M.W.1). He is the Assistant Chief Officer of the Regional Office, UCO Bank, Patna. In his examination in chief the witness has said that there was no vacancy when Sri Pandey was engaged in the Branch. According to him Sri Pandey was bringing and supplying water to the staff and also used to purchase and bring to the Branch items required by the Branch Manager and staff. In cross-examination he has admitted that Sri Pandey worked in the Branch from 1992 till the year 1997. Further he has admitted that he never worked in Sangrampur Branch and hence he has no personal knowledge as to what nature of work Sri Pandey was discharging in the Branch. But he has added that it is within his knowledge that Sri Pandey had been engaged on daily wage basis.

10. The workman Sri Shyam Kishore Pandey has been examined as W.W.1. He has supported his case and has stated that from 27-3-1992 to 5-4-1997 he worked continuously. His services were terminated w.e.f. evening of 5-4-1997. He has stated that he was performing the duties of a regular Peon as per the direction of the Branch Manager such as unlocking of Almirah, bringing out registers, ledgers, tokens, from the Almirah and placing them on the Tables, visiting Post Office for brining and posting mails, distribution of doks through Peon Book, supplying water and tea to the staff and when required, stitching currency notes and vouchers etc. He worked from 10 A.M. to 6 P.M. on every working day. Sometimes he worked even upto 8 P.M. Altogether he worked about 5 years in the Branch. He worked more than 240 days in 12 calendar months preceding his retrenchment. He has admitted that he cannot say whether there was any vacancy of Peon in the Branch. In cross-examination he has submitted that his brother Sri Rishu Kumar Pandey was also working in the Branch as a casual worker when he joined the service.

11. It may be noted that a petition was filed on behalf of the workman on 21-7-1999 for a direction to the Management to produce the details of work (date-wise, month-wise, and year-wise) performed by the workman along with details of payment to him. Accordingly a direction was made by this Tribunal to the Management to furnish such details of work. In compliance with the said direction the zerox copy of work-sheet of Shyam Kishore Pandey has been filed by the Management. This document has been used by the workman and has been marked as Ext. W/3. This work-sheet shows that the workman was engaged in the Branch in March, 1992. It further shows that in each month from April, 1992 till March, 1997 Sri Pandey worked between 21—25 days. He had worked only three days in April, 1997 when his service was terminated. This work-sheet clearly proves the claim of the workman that he worked from 27-3-1992 to 5-4-1997 almost continuously. He worked more than 240 days in 12 calendar months preceding his retrenchment. There is nothing in this work-sheet to indicate that Sri Pandey was doing only contingent nature of work or that he was not performing the duties of a peon. Rather it shows that he worked as a daily rated workman. Ext. W is the zerox copy of the letter of the Branch Manager, Sangrampur Branch dated 6-3-1995 annexing the particulars of the workman. It shows that Sri Pandey was working in the Branch since 7-3-1992. Ext. W/1 is the statement of the Branch Manager, Sangrampur Branch dated 9-3-1998 submitted by him before the Regional Labour Commissioner in connection with the present industrial dispute. The statement shows that Sri Pandey worked in the Branch from 27-3-1992 to 5-4-1997, he was paid wages of Rs. 12, Rs. 20 and Rs. 30. The statement further shows that Sri Pandey had been engaged due to shortage of sub-staff and he performed all types of work of Peon. Ext. W/2 is the photo copy of payment voucher dated 5-4-1997.

2948 GT/2001—12

12. The Management has filed zerox copy of the letter of the R.B.I. dated 16-12-1997 (Ext. M) wherein it is stated that the earlier ban would continue for fresh recruitment of staff including replacement of retirements, resignations excepting recruitment of specialised Probationary Officers with the prior approval of R.B.I./G.O.I. Ext. M/1 is the zerox copy of the circular of the Bank dated 29-12-1983 relating to the procedure to be followed for recruitment to the posts in subordinate cadre. It has been filed by the Management to show that the procedure for recruitment was not followed while engaging the concerned workman. Ext. M/2 is the zerox copy of the order of the Calcutta High Court dated 4-8-1999 passed in W.P. No. 1390/1990. It was a writ petition for absorption by some of the empanelled daily wage workers in the vacancies of the subordinate staff in pursuant to the agreement dated 12-10-1989 made between the Management of the UCO Bank and the Unions. The order shows that under the said settlement between the Management and unions the casual workers working continuously 240 days or more in the subordinate cadre during the period of three years immediately preceding the settlement were to be absorbed in the permanent vacancies. The casual workers entitled for being absorbed in terms of the said settlement were empanelled for such absorption in the vacancies as and when arose. The order further shows that altogether 460 casual workers were empanelled for absorption, out of whom only 69 casual workers could be absorbed. Some of the remaining empanelled workers filed the writ petition before the Calcutta High Court stating therein that through there were vacancies they were not being absorbed. The Hon'ble Calcutta High Court ordered that the Bank authorities should consider the case of the petitioners and shall absorb the rest of the casual workers as and when restriction for appointment by the R.B.I. was lifted.

13. Thus, after having a careful consideration of evidence, both oral and documentary, adduced in this case I find that Sri Shyam Kishore Pandey worked from 27-3-1992 to 5-4-1997 as a casual worker. He performed the normal duties of a regular Peon. I also find that his services were terminated w.e.f. the evening of 5-4-1997 i.e. from 6-4-1997. It is not disputed that the mandatory provisions of Section 25F were not complied with while terminating the services of the workman.

14. It was submitted on behalf of the Management that as Sri Pandey had never been appointed and as his services were not terminated there was no requirement for compliance of provisions of Section 25F of the I.D. Act. But it is well settled law that for the applicability of the provisions of Section 25F of the I.D. Act there need not be any formal letter of appointment or formal order in writing of termination. Termination effected not by any voluntary order will also come within the meaning of the retrenchment u/s 2(cc) of the I.D. Act (1994 P.L.J.R. page 612). The plegs of the Management that the Branch Manager who had engaged Sri Pandey had no authority to make such engagement or that the procedure prescribed for recruitment to sub-staff was not followed while engaging Sri Pandey and that since Sri Pandey had been engaged illegally and unauthorisedly he cannot be reinstated to such illegal appointment cannot be of any avail to the Management. It is now well settled law that the provisions of Section 25F are applicable even to a daily rated workman who had continuously served for 240 days in a year (1997) 11 S.C. cases page 306—Rattan Singh Vs. Union of India and another. A daily rated workman, who has completed service for 240 days within the meaning of Section 25-B, cannot be terminated from service on the ground of even misconduct without a Departmental Enquiry or without complying the provisions of Section 25F of the I.D. Act (1994) 2 P.L.J.R. page 669 A.I.R. 1991 S.C. page 1633). Service terminated in violation of Section 25F of the I.D. Act—The order of termination is rendered ab-initio void and an employee is entitled to continuity of service with full back wages (1989 S.C. cases (1, & 2) page 565—Narayan Chandra Vs. Presiding Officer, Labour Court and others). Termination of employment on the ground of appointment being illegal will itself qualify as retrenchment within the meaning of Section 2(cc) of the I.D. Act. The idea of illegal or invalid appointment is quite foreign to the scheme of the I.D. Act. Section 2(cc) of the I.D. Act which defines 'workman' does not have any such distinction (1991) 2 P.L.J.R. page 249—Moolach Kumar Singh Vs. State of Bihar).

15. Thus I find that since the provisions of Section 25F of the I.D. Act were not complied with the action of the

Management of the UCO Bank in terminating the services of the workman was not justified.

16. I further find that the workman Sri Shyam Kishore Pandey is entitled to be reinstated in service w.e.f. 6-4-1997 with payment of full back wages.

17. The Representative of the workman relying the decision of the Hon'ble Supreme Court in State of Haryana and others Vs. Piara Singh and others reported in 1992 S.C. cases (L & S) page 825 submitted that since Sri Pandey has worked as a casual worker for a long period he has a right to be considered for regularisation. I also agree with the view of the Representative of the workman, but it is not possible for regularisation of the concerned workman right way since the order of the Calcutta High Court (Ext. M/2) shows that some of already empanelled casual workers had not yet been absorbed in subordinate cadre in the light of 1989 settlement in view of the restriction placed by the R.B.I. with regard to the fresh recruitment. So the Management is directed to absorb Sri Shyam Kishore Pandey in the permanent post of sub-staff with other empanelled casual workers when the restriction of fresh recruitment is lifted by the R.B.I. and when vacancy will be available for such absorption.

18. It is further ordered that until the services of the workman is regularised, he be paid the wages equivalent to minimum salary plus allowances payable to a regular peon in Bank's subordinate cadre from the date when he will actually be taken back in service. He will be entitled for payment of back wages only at the old rate. Accordingly the Reference is answered. Let the Management implement the award within the period of 30 days from the date of publication of the Award.

19. This is my award.

Dictated & corrected by me.

S. K. MISHRA, Presiding Officer

5-9-2001

नई दिल्ली, 12 सितम्बर, 2001

का.आ. 2666.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिंडीकेट बैंक के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-9-2001 को प्राप्त हुआ था।

[सं. एल-12012/215/93-आई आर (बी-II)]

सी. गंगाधरण, अवसर सचिव

New Delhi, the 12th September, 2001

S. O. 2665.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-LC, Kanpur as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Syndicate Bank and their workman, which was received by the Central Government on 11-09-2001.

[No. L-12012/215/93-IR (B-II)]

C. GANGADHARAN, Under Secy,

ANNEXURE

Before Sri R. P. Pandey, Presiding Officer
Central Government Industrial Tribunal-cum-Labour
Court, Sarvodaya Nagar, Kanpur
Industrial Dispute No. 12 of 1994
In the matter of dispute¹ between
Sri S. K. Bhargava
House No. 30 Krishnapuri
Mathura U.P.

And

Dy. General Manager,
Syndicate Bank,
Zonal Office Skylark Building,
Naval Kishore Road, Lucknow.

AWARD

1. Central Government, Ministry of Labour, New Delhi, vide its notification No. L-12012/215/93-IR. (B-2) dated 17-2-94, has referred the following dispute for adjudication to this tribunal.

Whether the action of the management of Syndicate Bank in dismissing the services of Sri S. K. Bhargava, clerk, Mathura Main Branch with effect from 14-5-92 is justified? If not to what relief is the concerned workman entitled?

2. The concerned workman filed statement of claim with the allegations that the management of Syndicate Bank that is Disciplinary Authority on the basis of charge sheet dated 30-3-90, illegally dismissed the services of the applicant besides imposing punishment of stoppage of 4 increments with cumulative effect vide letter dated 14-8-92 on the finding of Inquiry Officer dated 29-2-92. The above referred inquiry was conducted in utter violation of principles of natural justice and no reasonable opportunity was afforded to the delinquent workman to defend his case during the course of inquiry. The workman was deprived of services of defence representative due to non sanction of advance for T. A. and D. A. for his defence representative. The workman was denied service of legal practitioner as his defence representative, although he made a request for the same because the charges were of serious nature and if proved would have ruined the life of the workman. Various vital documents required by the concerned workman were not provided to him during the course of enquiry. The workman requested the inquiry officer to summon six witnesses who were under the control of the management but the enquiry officer refused to summon them and asked the concerned workman to bring his defence witnesses at his own expense. The Inquiry Officer after holding enquiry submitted the report

which was a non speaking one. He believed the witnesses of the management and disbelieved the submissions of the workman without giving good reasons for the same. The finding of the inquiry officer recorded in his inquiry report dated 29-2-92 were perverse. The disciplinary authority served a show cause notice on the concerned workman and also gave him a personal hearing. During the course of personal hearing the concerned workman wanted to avail the service of the legal practitioner but he was not allowed by the disciplinary authority. He also pleaded before the disciplinary authority on 7-7-92 that the struck off entry of Rs. 8000/- was simply a clerical error and there was no fictitious entry of Rs. 10,000/- as alleged by the management but the disciplinary authority did not pay any heed to his explanation. The disciplinary authority passed the impugned order of dismissal dated 14-8-92 and also imposed the punishment of withholding of 4 increments with cumulative effect without giving good reasons for the same.

3. He alleged that in an earlier case of granting over draft to customers Sri Subhash Rawat was awarded punishment of one increment whereas the concerned workman has been punished with penalty of dismissal. Thus the disciplinary authority has discriminated against the concerned workman in the matter of awarding punishment which is violated of the provisions of Article 14 of the Constitution of India. On the basis of these allegations the concerned workman has prayed that enquiry proceedings and the punishment order dated 14-8-92 be declared illegal and be quashed. It has also been prayed that the concerned workman may be reinstated in service alongwith full back wages. He also prayed for awarding interest at the rate of 18% on the back wages.

4. The management of Syndicate Bank has contested the case and has filed written statement with the allegations that when Sri Bhargava was employed as clerk and was posted with temporary special assistant duties in Mathura Main Branch of the bank, he committed financial irregularities which amounted to grave misconduct and therefore a charge sheet dated 30-3-90 was issued against him. In pursuance of charge sheet dated 30-3-90 a departmental inquiry was instituted against him. The inquiry officer conducted the departmental inquiry fairly and properly and Sri Bhargava was given fair and proper opportunity to defend himself in accordance with the principles of the natural justice. The concerned workman was afforded full opportunity to cross examine the witnesses of the management and to produce his defence witness. The inquiry was conducted according to the principles of natural

justice. The inquiry officer repeatedly advised Sri Bhargava to name his defence representative but he did not mention the name of his defence representative to the enquiry officer. The sundry advance was not sanctioned for his representative because he did not disclose the name of his defence representative. In the absence of the above information, the manager Mathura Main Branch expressed his inability to sanction the advance. Further the defence representative has to avail sundry advance from the branch office where he is working. After recording the evidence of the parties and considering documentary evidence of the parties the inquiry officer submitted his report dated 29-2-92 holding the concerned workman guilty of the charges levelled against him. The Disciplinary Authority issued a show cause notice dated 20-6-92 to the concerned workman proposing punishment after concurring with the findings of the inquiry officer. The disciplinary authority also allowed personal hearing to Sri Bhargava. As the management representative was a ordinary officer of the bank and was not a legal practitioner, the concerned workman was also not allowed to engage legal practitioner to defend himself during the course of inquiry, hence neither the inquiry officer nor the disciplinary authority violated the principles of natural justice. Reasonable request of the concerned workman for supplying the documents was accepted and relevant documents were furnished to Sri Bhargava during the course of inquiry. The findings recorded by the inquiry officer were based on the evidence on record and were based on reasons. It was established during the course of inquiry that Sri Bhargava has caused fictitious entry of Rs. 10000 -, in saving bank account No, 15074 in order to provide undue advantage to a third party known to him whose account was opened under introduction of Sri Bhargava. He made forgery in the record of the bank with a view to cause loss to the bank and to cause financial advantage to the person known and close to him. The disciplinary authority passed order of punishment against other employees of the bank considering the fitness and circumstances of those cases and the case of the concerned workman was quite different from others specially when Sri Bhargava was held guilty for committing serious misconduct causing financial loss to the bank and pecuniary advantage to a person known to him and close to him. On the basis of these allegations the management has prayed that the inquiry should be held to have been conducted fairly and properly against Sri Bhargava and it may be declared that order of punishment dated 14-8-92 passed against him is legal and justified and is commensurate with the gravity of misconduct committed by him.

5. The concerned workman filed rejoinder in which he has reiterated the allegations made in the statement of claim. He further alleged that it is true that disciplinary cases are to be disposed of on merits but on the same and identical charges different punishment cannot be imposed on two employees and if it is done it is clear violation of article 14 of Constitution of India. He again prayed that impugned order of punishment of dismissal be quashed.

6. The management filed a number of documents relating to the domestic inquiry held against Sri Bhargava.

7. In this case following preliminary issue was framed by this tribunal after considering the pleadings of the parties.

Whether the domestic enquiry conducted by the management was not fair and proper?

8. In this case the parties had made a statement before this tribunal that they will not adduce oral evidence on the preliminary issue and the papers filed in the case may be exhibited and be read in evidence, hence the tribunal after giving full opportunity of hearing to both the parties recorded a finding on the preliminary issue on 1-8-97 holding that domestic enquiry was not fair and proper and the same is set aside. In the same order dated 1-8-97 this tribunal fixed 2-9-97 for the evidence of the management to prove the charges a fresh on merits and notices were issued to the parties accordingly. Thereafter the management examined Sri V. Sadanand Sanbhog, Manager Z. O. of Syndicate Bank, Mangalore, MW-1, Sri Y. A. Madhyastha, Manager Inspection, as M. W. 2 and Sri Alok Kumar Saxena, Lead Bank Office, Syndicate Bank Ghaziabad as M. W. 3. Management also filed documents marked Ext. 1 to M 37. The workman examined himself as W. W. 1 and did not file any document in his defence.

9. I have heard the concerned workman Sri Bhargava and the authorised representative for the management of bank and have gone through the record of the case.

10. Sri Bhargava concerned workman has argued that when the domestic inquiry held against him by the management of the bank was not held to be fair and proper by this tribunal and the management had not made any request in its written statement to lead additional evidence if the domestic inquiry was found vitiated, and did not move any application for adducing additional evidence before this tribunal, it was not open for this tribunal to invite suo-motu the management of the bank to adduce additional evidence before it to justify action taken by it against

him. He has relied on the decision of the Hon'ble Supreme Court of India made in Delhi Cloth Mills versus Ludhbudh Singh AIR 1972 SC 1031 in which Hon'ble Supreme Court of India at page 1047 has observed as under :

"If the employer relies on the domestic enquiry and does not simultaneously lead additional evidence or ask for an opportunity during the pendency of the proceedings to adduce such evidence, the duty of the tribunal is only to consider the validity of the domestic enquiry as well as the findings recorded therein and decide the matter. If the tribunal decides that the domestic enquiry has not been held properly it is not its function to invite suo-motu the employer to adduce evidence before it to justify the action taken by it".

11. Relying on the aforesaid observations of the Hon'ble Supreme Court of India, the concerned workman moved an application dated 3-7-2000 before this tribunal with contention that in this case when this tribunal suo-motu fixed a date for evidence of the management after the domestic inquiry was held to be unfair, it acted beyond its jurisdiction and the evidence adduced by the management thereafter could not be taken into consideration and the case should be decided as if there is no legal evidence on the record from the side of the management.

12. After going through the record of this case and provisions of Industrial Disputes Act, and looking into the facts and circumstances of the case, I do not find any force in the aforesaid contention. In the case of Delhi Cloth Mills mentioned above, the Hon'ble Supreme Court of India was not considering a case in which the tribunal had invited the management to adduce additional evidence for justifying its action taken against its workman the Hon'ble Supreme Court of India held in that case that the management has got a right to attempt to sustain its order by adducing independent evidence before the tribunal if the domestic inquiry has been found vitiated. Where there is a right there must be a corresponding duty on the tribunal/court also to permit the management to adduce such additional evidence when its domestic inquiry has been found vitiated.

13. In Neeta Kaplish versus Presiding Officer, Labour Court AIR 1999 (SC) 698 (1999 Lab. I.C. 445) the management even after providing an opportunity to lead evidence on merits failed to do so. Such an opportunity was given to the management to lead evidence in support of its order, after labour court found that the domestic inquiry was not fairly and properly held. But the management wanted to rely upon the domestic inquiry proceedings already held by the inquiry officer including the evidence recorded by him, by contending that it is entitled

to rely upon the material on the record. The Hon'ble Supreme Court of India after referring to the earlier judgements observed as under :

In view of the above, the legal position as emerges out is that in all cases where inquiry has not been held or the inquiry has been found to be defective, the tribunal can call upon the management of the employer to justify the action taken against the workman and to show by fresh evidence, that the termination or dismissal order was proper. If the management does not lead any evidence by availing of the opportunity, it cannot raise any grouse at any subsequent stage that it should have been given that opportunity and the tribunal in those circumstances, would be justified in passing an award in favour of the workman. If, however, the opportunity is availed of and the evidence is adduced by the management the validity of the action taken by it has to be scrutinised and adjudicated upon the basis of such fresh evidence.

14. In *Desh Raj Gupta versus Industrial Tribunal (IV) U.P. Lucknow*, and another, 1990 Lab. I.C. 1892 (SC) the facts were that the Tribunal, after it had found the domestic inquiry defective, asked the management to justify the order of punishment on merits, whereupon the parties led their evidence. The Tribunal gave the finding that the charges levelled against the workman were established by the materials on record and that the workman was not entitled to any relief. Exception was taken to the action of the Tribunal in asking the management to justify the order of punishment on merits. On the facts of the case in para eight at page 1894 it was observed. :

Analysing the situation it appears that by asking the respondent to justify the punishment by adducing additional evidence, the tribunal merely reminded the employer of his rights and the employer promptly availed of the opportunity. We do not find any illegality in the course adopted which could vitiate the award. The first point is therefore rejected.

15. In view of the aforesaid observations of the Hon'ble Supreme Court the contention of the workman that this tribunal had no authority to ask the management to adduce evidence and additional evidence adduced by the management should be rejected, is liable to be rejected.

16. I, therefore, hold that the additional evidence adduced by the management as well as the evidence of the workman recorded during the proceedings of this case is valid evidence and that has to be considered by this tribunal on the point whether the action of the management in passing the order of dismissal of the concerned workman is justified or not.

17. So far as the merits of the case is concerned, three charges were levelled against Sri S. K. Bhargava which are contained in the charge sheet dated 30-3-90 marked Ext. M-46. I will like to discuss the third charge before discussing the first and second charge levelled against the concerned workman. There is no dispute about the fact that Sri Bhargava was working as clerk at Mathura Main Branch of Syndicate Bank between 5-11-80 to 6-6-86 and during that period he was entrusted temporarily with the duties of special assistant from time to time. The third charge against Sri Bhargava is that the saving bank account No. 15074 in the name of Sri Nagesh Chandra Gupta was opened at Mathura Main Branch of Syndicate Bank on 14-1-86 with an initial deposit of Rs. 100/- and the concerned workman introduced the party to the branch. Immediately on the next day that is on 15-1-86 there was a credit of Rs. 8,000/- into the account thereby raising the credit balance in the account of Rs. 8,100/-. On 17-1-86 Sri Bhargava prepared a debit slip for Rs. 8,000/- earmarking a credit towards account No. 10028 of Sri H. K. Bhargava, his father. He authorised the said debit slip and initialled it for having debited the sum towards saving bank account No. 15074. However, the debit entry of Rs. 8,000/- made in the saving bank account No. 15074 was cancelled by the concerned workman and a credit entry of Rs. 10,000/- was made in the said account under his authorisation. The said credit entry of Rs. 10,000/- does not pertain to any genuine transaction that has taken place at the branch on that date. The effect of these entries is that while the debit entry of Rs. 8,000/- made in the account of Sri Gupta was not at all given effect to a credit entry for Rs. 10,000/- was made in the account thereby raising the credit balance in the account to Rs. 18,000/- as against the actual credit balance of Rs. 100/- therein. On 28-1-86 Sri Bhargava authorised the debit of a withdrawal slip bearing No. 568718 dated 28-1-86 for Rs. 18,000/- to be passed in the account and caused the amount to be paid in cash. The said withdrawal slip is filled in and was made in the handwriting of the concerned workman. The above circumstances go to show that by resorting to falsification of accounts and records of the branch, the concerned workman made available pecuniary advantage to be derived by a person known to him which was detrimental to the interest of the bank and thus the concerned workman committed an act of gross misconduct.

18. In support of the aforesaid charge the management examined Sri V. Sadanand Sanbhog, M.W. 1 and Sri Alok Kumar Saxena, M.W. 3. Both the witnesses have stated that the account of Sri Nagesh Chandra Gupta was opened on the introduction of Sri Bhargava and the debit slip Ext. M.35 whereby Rs. 8,000/- was debited from the account to

Sri Nagesh Chandra Gupta and the credit slip Ext. M.36 whereby Rs. 8,000/- was credited to the account of his father were prepared by the concerned workman. They stated that the debit entry of Rs. 8,000/- made in the account of Nagesh Chandra Gupta was cut off by the concerned workman and he made a fictitious entry of Rs. 10,000/- crediting the amount in the account of Sri Gupta. They stated that this entry of Rs. 10,000/- was not based on any genuine transaction and the concerned workman again on 28-1-86 made withdrawal of Rs. 18,000/- on the basis of aforesaid fictitious entries whereas only Rs. 100/- was in balance of Sri Nagesh Chandra Gupta. It has also come in evidence of M.W. 3 that copy of ledger folio is of Sri Nagesh Chandra Gupta which is Ext. M.34 on record. Both the witnesses were cross-examined by the concerned workman but there is nothing in their cross-examination which may discredit their testimony. Their testimony on this point is supported by documentary evidence on record filed by the management. The concerned workman did not adduce any evidence to show that transaction of credit of Rs. 10,000/- made in the account of Sri Gupta was genuine. He did not even state on oath whether this amount was deposited by cash or was credited by transfer. When that credit entry of Rs. 10,000/- was said to be fictitious in the charge sheet Sri Bhargava could have examined Sri Nagesh Chandra Gupta to prove that aforesaid transaction of crediting Rs. 10,000/- in his account was genuine transaction but he did not do so for the reasons best known to him. He did not deny that the debit entry of Rs. 8,000/- made on 17-1-86 in the account of Sri Nagesh Chandra Gupta was not scored off by him. On the other hand in his statement on oath made before this tribunal Sri Bhargava admitted that Ext. M.34, M.36 and M.37 were prepared by him. He admitted during the course of personal hearing before the disciplinary authority, that striking of entry of Rs. 8,000/- made by him in the account of Sri Gupta which was a clerical error and he will try to recover that amount from the party concerned. Admittedly the amount of Rs. 8,000/- was credited in the account of his father although there is nothing on record to show that Sri Nagesh Chandra Gupta had authorised to do so. That amount of Rs. 8,000/- has not been paid either by the concerned employee in the bank or by the concerned party who was benefited with the fictitious and forged entries made by Sri Bhargava in the records of the bank. Thus the evidence of the management bank on charge No. 3 goes almost uncontroverted and I am therefore inclined to believe the case of the management that Sri S. K. Bhargava, firstly debited Rs. 8,000/- in the account of Sri Nagesh Chandra Gupta and credited the same amount in the account of his father who was holding saving bank account in the same

branch of the bank and thereafter he scored off the debit entry of Rs. 8,000/- and by showing fictitiously a credit of Rs. 10,000/- raised the credit amount to Rs. 18,000/- and again on 28-1-86 he allowed withdrawal of Rs. 18,000/- from the account of Sri Nagesh Chandra Gupta when actually there was a balance of Rs. 100/- only in his account. Thus he by making false and forged entries in the account of Sri Nagesh Chandra Gupta caused undue pecuniary advantage to his father as well as to some person known to him at the cost of the bank. The aforesaid conduct of Sri Bhargava makes his integrity doubtful. Thus charge No. 3 is proved against him.

19. So far as the charge No. 1 is concerned which has been mentioned in the charge sheet Ext. M.46, it appears that Sri Bhargava in the capacity of Special Assistant allowed unsecured debit balance in the current account No. 1075 of M/s. Hari Om Industries, Current Account No. 1097 of M/s. Brij General Stores, Current Account No. 1036 of M/s. Radha Krishna Sarce Centre and Current Account No. 1196 of M/s. Sharma Spare Parts. In all those cases heavy withdrawals were allowed to the parties when there was little amount to their credit in their accounts. Thus he acted against the interest of the bank with a view to give undue advantage to those parties. The details of those amounts for which unsecured debit balances were allowed by the concerned workman have been given in the charge sheet as well as in the order of punishment passed against the concerned workman on 14-8-92 Ext. M.49.

20. The second charge against Sri Bhargava is that he allowed over draws in the OD Account of Sri Subhash Rawat (clerk), Smt. Sushma Rawat, M/s. K. K. Electric Stores, Sri Som Nath Chaturvedi and Raju Chaturvedi beyond the limits of overdraft sanctioned to these persons. Thus he acted beyond his powers and in violations of the limits prescribed for over draws allowed to those parties which was detrimental to the interest of the Bank. The copies of ledger accounts of those parties have been filed by the management in support of his contention. Sri Y. A. Madhyastha M. W. 2 has stated that the concerned workman had allowed over draws to Sri Subhash Rawat, Smt. Sushila Rawat for which he had no authority. He stated that he made investigation of those over draws in May 1986. The concerned workman cross-examined this witness but he did not say that the aforesaid draws were not allowed by him. He did not state that he had authority to allow those over draws against the prescribed limits. The over draws and unsecured debit balances allowed by the concerned workman have been described in the charge sheet as well as in the order of punishment. Sri Bhargava

in his statement on oath stated that he received charge sheet dated 30-3-90 from Zonal Office of the Bank. He stated that charge no. 1 and 2 related to over draws and he wanted to state regarding those charges that similar over draws were allowed by other employees of the bank also but no charge sheet was given to them. In his statement of claim the workman has stated that on similar charge of allowing over draws an employee of the bank was punished with penalty of with holding of one increment whereas for similar charges he has been dismissed from service which action of the bank is discriminatory and hit by Article 14 of Constitution of India. Thus in so many words he has admitted the charge nos. 1 and 2 levelled against him in the charge sheet dated 30-3-90. There is nothing on record to show that other employees of the bank also allowed over draws of such heavy amounts as have been allowed by the concerned workman. There is nothing on record to show that over draws allowed by other employees were not paid or recouped by the account holders to whom benefits of over draws were granted by those workmen whereas in the present case in which the concerned workman allowed unsecured debit balances and over draws beyond limits, were not recouped and paid by those account holders for several years which caused pecuniary loss to the bank. Secondly the manner in which the concerned workman made fictitious and false entries in the account of Sri Nagesh Chandra Gupta and gave pecuniary advantage to his father as well as persons known and close to him goes to show that this man is not reliable person and such person cannot be retained in the service of the bank which is trustee of the public money. In these circumstances it cannot be said that management has discriminated against the concerned workman while awarding minor punishment to other workman, because that employee does not appear to be guilty for committing forgery and giving undue advantage to his relative and to other known and close persons.

21. In view of above considerations I find that charges levelled against the concerned workman are established by cogent and reliable evidence and I do not find any illegality in the impugned order of dismissal dated 14-8-92 passed against Sri S. K. Bhargava. I, therefore, hold that the action of the management of Syndicate Bank in dismissing Sri S. K. Bhargava clerk Mathura Main Branch from service of the bank with effect from 14-8-92 is justified and the concerned workman is not entitled to any relief in pursuance of this reference.

22. The reference is answered accordingly against the concerned workman.

R. P. PANDEY, Presiding Officer

नई दिल्ली, 12 सितम्बर, 2001

का.आ. 2667.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंट्रल बैंक ऑफ इंडिया के प्रबंधन के संबंध नियो-जकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-9-2001 को प्राप्त हुआ था।

[सं. एल-12012/294/95-आई आर (बी-II)]

सी. गंगाधरन, अवर सचिव

New Delhi, the 12th September, 2001

S.O. 2667.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 11-09-2001.

[No. L-12012/294/95-IR(B-II)]

C. GANGADHARAN, Under Secy.

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर
आदेश संख्या :—एल-12012/294/95-आई.आर. (बी-2)
31-12-96 एवं संशोधित आदेश संख्या :—एल-12012/
294/95-आई.आर. (बी-II) दिनांक 4-12-99,
प्रकरण संख्या :—सी.आई.टी./4/97

(1) दिलीप प्रकाश पुत्र श्री बाबुलाल,
निवासी प्लॉट संख्या-171,
राजीव नगर, एन.बी.सी. के मामले,
जयपुर।

(2) अध्यक्ष,
ऑल बैंक सफाई कर्मचारी संघ,
राजस्थान द्वारा सेंट्रल बैंक ऑफ इंडिया,
आकाशवाणी के पास,
एम.आई.रोड, जयपुर।

—प्रार्थीग

अनाम

- (1) क्षेत्रीय प्रबन्धक,
सेन्ट्रल बैंक ऑफ इण्डिया,
क्षेत्रीय कार्यालय, आनन्द भवन,
संसारचन्द्र रोड, जयपुर ।
- (2) मुख्य प्रबन्धक,
सेन्ट्रल बैंक ऑफ इण्डिया,
शाखा संसारचन्द्र रोड, जयपुर ।

—अप्रार्थीगण

उपस्थित :—

प्रार्थीगण की ओर से	श्री कानमिह राठौड़ ।
अप्रार्थीगण की ओर से	श्री मनोज कुमार शर्मा ।
पंचाट दिनांक	9-8-2001
	पंचाट

केन्द्रीय सरकार के द्वारा निम्न विवाद उक्त आदेशों के जरिए औद्योगिक विवाद अधिनियम, 1947 (जिसे बाद में अधिनियम 1947 कहा गया है) की धारा-10 की उपधारा (1) के खण्ड-घ के प्रावधानों के अन्तर्गत न्यायनिर्णय हेतु निर्देशित किया गया है :—

“Whether the action of the Central Bank of India is justified in paying to Sh. Dilip Prakash, Part-time Sweeper Rs. 175 instead of 1/3 scale from 2-11-1989, not regularising his services and not allowing him to appear in the examination for conversion to Sub-staff? If not, to what relief is the said workman entitled and from what date?”

प्रार्थीगण की ओर से स्टेटमेंट ऑफ केस यह उल्लेख करते हुए प्रस्तुत किया गया कि प्रार्थी संख्या-1 दिलीप प्रकाश (जिसे बाद में श्रमिक कहा गया है) अप्रार्थी संख्या-2 के अधीन विस्तार पटल राजस्थान आवासन मण्डल, जयपुर पर दिनांक 01-09-1989 से 3/- रुपए दैनिक मजदूरी पर नियुक्त किया गया था। दिनांक 2-11-89 से कार्य करने के समय व पानी भरने के कार्य के कारण श्रमिक को 175/- रुपए प्रतिमाह वेतन दिया जाने लगा। श्रमिक को दिनांक 28-9-90 से दिनांक 3-10-90 तक सेवा से पृथक कर दिया। श्रमिक को दिनांक 4-10-90 को पुनः सेवा में ले लिया गया। अप्रार्थी संख्या-1 ने एक परिपत्र दिनांक 15-9-90 द्वारा कर्मचारियों को नियमित करने हेतु जानकारी चाही। अप्रार्थी संख्या-1 द्वारा खाली पदों पर भर्ती प्रक्रिया अपनकर दिनांक 1-11-91 को सुरेश को एवं संजय कुमार को अंशकालीन सफाई कर्मचारी के पद पर नियुक्त किया। नवम्बर, 1992 में संजय कुमार को आधे वेतनमान पर नियुक्ति दी गई, जो कि श्रमिक से कनिष्ठ था। दिनांक 1-12-92 को विनेश कुमार ताम्बी एवं ताराचंद को अंशकालीन सफाई कर्मचारी के पद पर नियुक्ति दी गई। श्रमिक से कनिष्ठ सुरेश को दिनांक 28-1-95 से 1/3 वेतन पर नियुक्ति दी गई। इसी प्रकार ताराचंद

को सन् 1995 में 1/3 वेतन पर नियुक्ति दी गई। सम्पत देवी व दिनेश कुमार ताम्बी जो कि श्रमिक से कनिष्ठ थे, को सन् 1996 में 1/3 वेतनमान पर नियुक्ति दी गई। अप्रार्थी संख्या-2 ने प्रभारी अधिकारी राजस्थान आवासन मण्डल, विस्तार पटल, जयपुर से पत्र दिनांक 20-9-94 के माध्यम से श्रमिक द्वारा किए जाने वाले कार्य समय व क्षेत्रफल की जानकारी चाही जिसके उत्तर में श्रमिक के द्वारा डेढ़ घण्टे प्रतिदिन व 750 वर्गफीट क्षेत्रफल की मजदूरी दिए जाने हेतु अप्रार्थी संख्या-2 ने अप्रार्थी संख्या-1 को मजदूरी तय करने के लिए लिखा। अप्रार्थी संख्या-1 ने परिपत्र दिनांक 16-11-94 जारी कर पूर्णकालिक सफाई कर्मचारी के कर्तव्य हेतु प्रेषित किया। श्रमिक उक्त पद की सभी शर्तें पूरी करना है। श्रमिक ने आवेदन पत्र दिनांक 21-11-94 देकर पद परिवर्तन का अवसर देने की मांग की, जिस पर उसकी सेवा समाप्त किए जाने की धमकी दी गई। प्रार्थना की गई कि श्रमिक को दिनांक 4-10-90 से 1/3 वेतनमान का लाभ दिए जाने का आदेश दिया जाए व घोषित किया जाए कि श्रमिक दिनांक 28-1-95 की परीक्षा में सम्मिलित होने का अधिकारी था।

अप्रार्थीगण की ओर से जवाब में उल्लेख किया गया कि श्रमिक को बैंक में नियुक्ति नहीं दी गई व निर्धारित क्षेत्र की सफाई करने का कार्य दिया गया था, जो कान्ट्रेक्ट फार सर्विस था त कि कान्ट्रेक्ट ऑफ सर्विस। बैंक तथा श्रमिक के बीच कर्मचारी और नियोजन के सम्बन्ध नहीं रहे। श्रमिक अधिनियम, 1947 में दी गई कर्मकार की परिभाषा के अन्तर्गत नहीं आता। प्रार्थी संख्या-2 आल बैंक सफाई कर्मचारी संघ (जिसे बाद में संघ कहा गया है) ने इस व्यक्तिगत विवाद को औद्योगिक विवाद में उठाने हेतु कोई प्रस्ताव भी पारित भी नहीं किया है। इस व्यक्तिगत विवाद में सभी कर्मचारियों के हित भी विद्यमान नहीं हैं, अतः यह औद्योगिक विवाद नहीं है। अधिनियम, 1947 की धारा 2(के) के अन्सार कोई औद्योगिक विवाद उत्पन्न नहीं होता। सुरेश कुमार को दिनांक 1-1-91 से बैंक की दूसरी शाखा में 175/- रुपए माहवार पर सफाई व पानी भरने का कार्य दिए जाने व संजय कुमार को दिनांक 1-12-90 से 175/- रुपए माहवार प्रोमिस हाउस पर उक्त कार्य के लिए दिए जाने का उल्लेख किया गया। दिनेश कुमार ताम्बी को सफाई कार्य दिनांक 24-4-92 से दिए जाने का उल्लेख किया गया। यह भी उल्लेख किया गया कि श्रमिक व सुरेश कुमार दोनों बैंक कर्मचारी नहीं हैं उन्हें निश्चित दायरे की सफाई के कार्य की एज में एक निश्चित राशि का भुगतान किया गया। सफाई के क्षेत्रफल में बढ़ोतरी होने पर उनकी भुगतान की राशि भी बढ़ाई गई। ताराचंद व सम्पत देवी को सफाई के निर्धारित एरिया को ध्यान में रखते हुए भुगतान किया गया। प्रसवद को 60 दिन के लिए अस्थायी तौर पर विशेष सफाई कार्य सौंपा गया था।

प्रार्थीगण की ओर से प्रत्युत्तर प्रस्तुत किया गया, जिसमें उसने स्टेटमेंट ऑफ केस में वर्णित तथ्यों को दोहराया व उल्लेख किया कि श्रमिक की सेवा परिपत्र दिनांक 15-9-90

के तहत नियमित की गई। श्रमिक का कार्यसमय व क्षेत्रफल निर्धारण बैंक के परिपत्र दिनांक 14-5-91 के द्वारा निर्धारित होता है, वह समस्त कर्मचारों पर लागू है।

पक्षकारों के अभिकथनों के आधार पर निम्नांकित विवाद विन्दु बनाए गए :—

- (1) आया श्रमिक विपक्षी संस्थान में कर्मकार के रूप में कार्यरत है ?
- (2) आया ऑल बैंक सफाई कर्मचारी संघ द्वारा उठाया गया विवाद जवाब के खण्ड संख्या-2 व 3 में दिए गए कारणों से औद्योगिक विवाद नहीं है ?
- (3) आया सुरेश कुमार, ताराचंद व दिनेश को अप्रार्थी संस्थान में नियुक्ति दी गई एवं वे विलीय प्रकाश से कनिष्ठ है ?
- (4) आया श्रमिक दिनांक 4-10-90 से एक-तिहाई वेतनमान प्राप्त करने का अधिकारी है एवं दिनांक 20-1-95 की परीक्षा में बैठने का अधिकारी था, यदि हां तो इसका प्रभाव ?
- (5) प्रार्थी किस सहायता प्राप्त करने का अधिकारी है ?

क्लेम के समर्थन में श्रमिक व सुरेश जेदिया, संघ के अध्यक्ष के बयान कराए गए। विपक्षी की ओर से रघुवीर सिंह, प्रबन्धक (कामिक) का कथन कराया गया। इनके प्रतिरिक्त दोनों पक्षों की ओर से प्रतिलिपि प्रलेख प्रस्तुत किए गए, जिनका उल्लेख यथा स्थान किया जाएगा।

बहुस सुनी गई एवं पत्रावली का अवलोकन किया गया।

बनाए गए विवाद विन्दुओं का विनिश्चय निम्न प्रकार किया जाता है :—

विन्दु संख्या 1 :— यह विवादित नहीं है कि श्रमिक विपक्षी संस्थान में दिनांक 4-10-90 से सफाई हेतु कार्यरत है व उसे उक्त दिनांक से उक्त कार्य हेतु 175 रुपये माहवार भुगतान किया जाता रहा है। अप्रार्थीगण के विद्वान अधिवक्ता का तर्क है कि 175 रुपये माहवार मजदूरी का भुगतान कान्ट्रेक्ट ऑफ सर्विस न होकर कान्ट्रेक्ट फार सर्विस है व इस कारण श्रमिक व विपक्षी बैंक के बीच कर्मकार व नियोजक का सम्बन्ध स्थापित नहीं होता। उन्होंने इस संदर्भ में रघुवीर सिंह के कथन की ओर से ध्यान आकृष्ट किया है, जिसमें उसने उल्लेख किया है कि श्रमिक ने ठेके पर कार्य किया था। यह उल्लेख करना पर्याप्त होगा कि अप्रार्थी संख्या 2 ने अप्रार्थी संख्या-1 को पत्र दिनांक 4-10-94 प्रदर्श डब्ल्यू-6 के द्वारा सूचित किया है कि श्रमिक राजस्थान आवासन मण्डल, ज्योति नगर विस्तार पर अंशकालीन सफाई कर्मचारी के पद पर कार्यरत है तथा उसे 175 रुपये माहवार मजदूरी का भुगतान किया जाता है। श्रमिक का विपक्षी संस्थान में मजदूरी के आधार पर सफाई करने का कार्य करना कान्ट्रेक्ट ऑफ सर्विस के तहत आता है व श्रमिक व विपक्षी संस्थान के बीच कर्मकार व नियोजक का सम्बन्ध स्थापित होता है।

विन्दु संख्या 2 :— अप्रार्थीगण के द्वारा जवाब के खण्ड संख्या-2 में आपत्ति की गई है कि श्रमिक कर्मकार की श्रेणी में नहीं आता व संघ ने विवाद उठाने का प्रस्ताव पारित नहीं किया। खण्ड संख्या-3 में उल्लेख किया गया है कि श्रमिक व विपक्षी बैंक के मध्य सेवा शर्तों के बारे में कोई विवाद नहीं है, अतः विवाद औद्योगिक विवाद के तहत नहीं आता। जैसाकि उल्लेख किया जा चुका है श्रमिक “कर्मकार” की श्रेणी में आता है। विपक्षी की ओर से श्री रघुवीर सिंह का कथन है कि यूनियन ने श्रमिक का विवाद उठाने के बारे में कोई प्रस्ताव प्रस्तुत नहीं किया। श्रमिक का कथन है कि उसने अपने विवाद के बारे में संघ को अवगत कराया था व संघ ने उसे उसका जायज अधिकार विलाए जाने हेतु विपक्षी से संयुक्त रूप से निवेदन किया। सुरेश जेदिया का भी कथन है कि श्रमिक उनकी यूनियन का सदस्य है व उसने इस बारे में शिकायत की कि उसे 1/3 वेतनमान के पद परिवर्तन का लाभ नहीं दिया जा रहा है। संघ के द्वारा श्रमिक के बारे में समझौता अधिकारी के समक्ष विवाद उठाया गया। श्रमिक की शिकायत पर समझौता अधिकारी के समक्ष विवाद उठाना व तत्पश्चात् क्लेम प्रस्तुत करने से प्रकट होता है कि संघ ने विवाद उठाने के बारे में अपने स्तर पर निर्णय किया। श्रमिक को द्विपक्षीय समझौते के अनुसार व विपक्षी बैंक के द्वारा जारी परिपत्रों के अनुसार वेतनमान अथवा पद परिवर्तन का लाभ न दिये जाने से औद्योगिक विवाद उत्पन्न होना प्रमाणित है। इस प्रकार इस विन्दु का विनिश्चय अप्रार्थी के विरुद्ध किया जाता है।

विन्दु संख्या 3 :— प्रार्थीगण के विद्वान प्रतिनिधि ने इस विन्दु पर कोई जोर नहीं दिया है।

विन्दु संख्या 4 :— अप्रार्थी संख्या-2 ने पत्र दिनांक 4-10-94 में उल्लेख किया है कि राजस्थान आवासन मण्डल, ज्योतिनगर विस्तार पटल शाखा ने पत्र दिनांक 26-9-94 के द्वारा सूचित किया है कि श्रमिक को उक्त परिसर की सफाई करने में डेढ़ घण्टे का समय लगता है तथा परिसर का क्षेत्रफल 750 वर्गफीट है, अतः तदनुसार उसकी मजदूरी हथ की जाए। अप्रार्थीगण का साक्षी रघुवीर सिंह यह नहीं बणा सका कि श्रमिक को कितना क्षेत्रफल सफाई हेतु दिया हुआ है। द्विपक्षीय समझौते के अनुसार 6 घण्टे से 13 घण्टे प्रति सप्ताह कार्य करने वाले अधीनस्थ कर्मचारी 1/3 वेतनमान पाने के अधिकारी है। विपक्षी बैंक के परिपत्र दिनांक 14-5-91 के अनुसार भी 6 घण्टे से 13 घण्टे प्रति सप्ताह कार्य करने वाले व 501 से 1500 वर्गफीट का क्षेत्रफल की सफाई करने वाला कर्मचारी 1/3 वेतनमान व आनुपातिक वार्षिक वेतनवृद्धि पाने का अधिकारी है। अप्रार्थी की ओर से उक्त पत्र में स्वीकार किया गया है कि श्रमिक गत सप्ताह 9 घण्टे कार्य करता था व 750 वर्गफीट बैंक परिसर की सफाई करता था। अतः वह दिनांक 4-10-90 से 1/3 वेतनमान प्राप्त करने का अधिकारी हो जाता है।

पद परिवर्तन हेतु बैंक के परिपत्र दिनांक 16-11-94 का सुसंगत भाग इस प्रकार है :—

“दियय :— सर्व स्टाफ भर्ती 1994-95 कन्वर्जन पूर्णकालिक सफाई कर्मचारी/अंशकालीन सफाई कर्मचारियों की बरीयत।

प्रबंधन द्वारा यह निर्णय लिया गया है कि अधीनस्थ कर्मचारी संवर्ग में पूर्णकालिक रिक्तियों को भरने के लिए चालू वर्ष में एक परीक्षा केवल वर्तमान पूर्णकालिक सफाई कर्मचारी/हमाल/फराश एवं अंशकालीन सफाई कर्मचारियों के कन्वर्जन हेतु ली जाए जो निम्नलिखित योग्यता मानदण्डों को पूरा करते हों :—

1. पूर्णकालिक सफाई कर्मचारी/हमाल/फराश :—

1.1 उन्होंने 1 अप्रैल, 1994 को कम से कम 5 साल का बैंक सेवा काल पूर्ण कर लिया हो।

1.2 अधीनस्थ कर्मचारियों की पात्रता की भांति हालांकि इन कर्मचारियों पर शैक्षणिक योग्यता का मापदण्ड लागू नहीं होगा। फिर भी उन्हें हिन्दी अथवा अंग्रेजी अथवा किसी क्षेत्रीय भाषा में पढ़ने की क्षमता होना आवश्यक है उन्हें इसका साक्ष्य प्रस्तुत करना होगा।

1.3 शैक्षणिक योग्यता यदि कोई हो के समर्थन में उचित स्कूल प्रमाणपत्र होना चाहिए, जिसकी प्रति शाखा प्रबंधक द्वारा प्रमाणित होनी चाहिए।

2. अंशकालीन सफाई कर्मचारी

2.1 उन्होंने दिनांक 1 अप्रैल, 1994 को स्थायी अंशकालिक अधीनस्थ कर्मचारी के रूप में कम से कम 3 वर्ष की निरन्तर सेवा पूर्ण कर ली हो तथा वेतन का 1/3, 1/2, 3/4 ले रहे हों तथा वे कर्मचारी भी जो एक मुश्त रूपसे 175 प्रतिमाह ले रहे हों।

2.2 वे कम से कम तीसरी कक्षा पास हों।”

प्रार्थी के विद्वान प्रतिनिधि का तर्क है कि प्रार्थी ने 1 अप्रैल, 94 तक स्थायी अंशकालीन सफाई कर्मचारी के रूप में 3 वर्ष की निरन्तर सेवा पूर्ण कर ली थी तथा वह 175 रुपये प्रति माह मजदूरी भुगतान भी प्राप्त कर रहा था। प्रार्थी की ओर से ऐसा कोई प्रमाणपत्र प्रस्तुत नहीं किया गया जिसके अनुसार उसे स्थायी किया गया हो। ऐसी दशा में उक्त परिपत्र के अनुसार श्रमिक निर्धारित योग्यता नहीं रखने के कारण दिनांक 20-1-95 की आयोजित परीक्षा में बैठने का अधिकारी नहीं था।

बिन्दु संख्या 5 :— उक्त बिन्दुओं के विनिश्चय के आधार पर विपक्षी बैंक के द्वारा श्रमिक को दिनांक 4-10-90 से 1/3 वेतनावधि दिया जाना उचित नहीं कहा जा सकता। वह दिनांक 4-10-90 से 1/3 वेतनमान देने का अधिकारी होगा। सब स्टाफ के पद पर परिवर्तन की परीक्षा में बैठने की अनुमति न दिए जाने व उसकी सेवाओं को नियमित न किया जाना अनुचित नहीं कहा जा सकता।

पंचाट की प्रतिकृति केन्द्रीय सरकार को अधिनियम, 1947 की धारा 17 की उपधारा (1) के अन्तर्गत प्रकाश-तार्थ प्रेषित की जाए।

ह० (अपठनीय)
पीठासीन अधिकारी

नई दिल्ली, 12 सितम्बर, 2001

का.ग्रा. 2668.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गत में, केन्द्रीय सरकार यूनाइटेड कमर्शियल बैंक के प्रबंधन के संघर्ष नियोजकों और उनके कर्मचारों के बीच, अन्वय में निर्विष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-9-2001 को प्राप्त हुआ था।

[सं० एल. 12012/489/86/डी II (ए)]

सी. गंगाधरन, अव्वर सचिव

New Delhi, the 12th September, 2001

S.O. 2668.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-LC, Kolkata as shown in the annexure in the Industrial Dispute between the employers in relation to the management of United Commercial Bank and their workmen, which was received by the Central Government on 11-09-2001.

[No. L-12012/489/86/D-II(A)]

C. GANGADHARAN, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL AT KOLKATA
Reference No. 99 of 1988

Parties: Employers in relation to the management
of Burdwan Division of United Commercial
Bank

AND

Their workmen

Present: Mr. Justice Bharat Prasad Sharma
Presiding Officer

Appearance:

On behalf of : Mr. H.R. Khan, Legal Retainer
Management of the Bank.

On behalf of : Mr. S. Majumdar, Advocate.
Workman

State : West Bengal Industry : Banking

AWARD

By Order No. L-12012(489)/86-D.IIA/IVB dated 20th June, 1987 and corrigendum of even number dated 3rd August, 1987 the Central Government in exercise of its powers under section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of Burdwan Division of United Commercial Bank in not giving opportunity to Sri Subhas Chandra Konar and 53 others (as in the Annexure-A) after termination of their services for re-employment under Sec. 25H of the I.D. Act alongwith other candidates is justified? If not, to what relief the workmen concerned are entitled?”

Temporary sub-staff of United Commercial Bank at the different Branches of Burdwan Division-II

Sl. No.	Name and Address	Name of the Branch	Working days
1	2	3	4
1.	Subhash Ch. Konar Vill. & P.O. Burdwan, Dist. Burdwan.	Steel City	16-11-1983 to 30-11-1983 3-1-1984 to 29-2-1984
2.	Mrityunjay Chatterjee Vill. Bandra, P.O. Gopalpur, Durgapur-12, Dist. Burdwan.	Steel City	6-8-1983 to 18-10-1983
3.	Chandan Prakash Mukherjee, Vill. & P.O. Birudiha, Dist. Burdwan.	Steel City	12-7-1984 to 29-9-1984
4.	Pradip Banerjee Vill. & P.O. Hateasuria, Dist. Bankura,	Steel City	5-10-1984 to 30-12-1984
5.	Dharmadas Dubey, Vill. & P.O. Banjora, Dist. Bankura.	Steel City	18-10-1983 to 31-12-1983
6.	Debasish Gupta Vill. & P.O. Hateasuria, Dist. Bankura.	Steel City	31-12-1984 to 14-3-1985
7.	Shahadeb Kr. Mondal Vill. Bhiringi, Middyapare, P.O. Durgapur-13, Dist. Burdwan.	Bud Bud	24-10-1984 to 5-1-1985
8.	Jiban Kr. Mukherjee Vill. Kuldia, P.O. Durgapur-12, Dist. Burdwan.	Bud Bud	11-10-1983 to 24-12-1983
9.	Tapan Kumar Laha Vill. Sundiora, P.O. Tilakchandpur, Dist. Burdwan.	Bud Bud	12-7-1984 to 22-9-1984
10.	Sukumar Laha Vill. Shokna, P.O. Birudiha, Dist. Burdwan.	Bud Bud	26-12-1983 to 9-3-1984
11.	Amal Kr. Das Vill. & P.O. Rajbandh, Dist. Burdwan.	Bud Bud	7-1-1985 to 22-3-1985
12.	Shymal Kr. Mishra, Vill. Andal Gram, P.O. Andal Gram, Dist. Burdwan.	Bud Bud	10-3-1984 to 23-5-1984

1	2	3	4
13.	Monohar Mondal Vill. Kururia, P.O. Amarai, Durgapur-3, Dist. Burdwan.	Benachity	13-1-1984 to 20-1-1984 1-2-1984 to 2-4-1984
14.	Bablu Mondal Durgapur Hattola, Kesh Market (Rice Shop), P.O. Durgapur, Dist. Burdwan.	Benachity	14-5-1984 to 19-5-1984 24-10-1984 to 10-11-1984 3-9-1984 to 15-9-1984
15.	Dhiren Banerjee C/o. S.N. Banerjee, Vill. Gopalmath, P.O. Durgapur-3, Dist. Burdwan.	Benachity	2-7-1984 to 31-7-1984 17-9-1984 to 22-9-1984 12-11-1984 to 17-11-1984
16.	Durgapada Dutta Steel Market, P.O. Durgapur-4, Dist. Burdwan.	Benachity	10-5-1984 to 10-1-1985
17.	Khetra Nath Bhattacharya Vill. & P.O. Maliapara, Dist. Burdwan.	Benachity	12-9-1985
18.	Anadi Dutta D.T.P.S. Old Colony, Qr. No. CH/12A, P.O. Durgapur, Dist. Burdwan.	Benachity	13-3-1985 to 4-5-1985 20-5-1985 to 27-5-1985 29-5-1985 to 31-5-1985 1-6-1985 to 11-6-1985
19.	Sailendra Nath Sarkar B2-344/3, P.O. Durgapur-10. Dist. Burdwan.	Benachity	11-3-1985
20.	Lahit Baran Singha Vill. Danapara, Dist. Burdwan.	City Centre	from 12-1-1984
21.	Sahadeb Kundu C/o. Khandulal, Sutradhar, Vill. Pursha, P.O. Durgapur-7. Dist. Burdwan.	City Centre	from 14-1-1985
22.	Ramjiban Mukherjee Vill. & P.O. Birudiha, Dist. Burdwan.	Steal City	13-6-1985 to 28-8-1985
23.	Sudhir Kr. Mondal Vill. & P.O. Amar Gar, Dist. Burdwan.	Bahulla	7-1-1985 to 22-3-1985

1	2	3	4
24.	Madhusudan Majhi Vill. Chaktetual, P.O. Rondia, Dist. Burdwan.	Chera	1984
25.	Rupnath Mondal Vill. Musefpur, Dist. Burdwan.	Burdwan	18-9-1984 to 3-12-1984
26.	Karuna Sankar Samanta, Vill. Chakteual, P.O. Rondia, Dist. Burdwan.	Burdwan Main	15-11-1983 to 16-11-1984
27.	Dinesh Kr. Ghosh Vill. Chandul, P.O. „ Dist. Burdwan.	Debipur,	18-8-1984 to 29-10-1984
28.	Ram Pr. Haldar, Vill. P.O. Lakuddhi Dist. Burdwan.	Debipur	27-12-1983 to 10-3-1984
29.	Dilip. Kr. Nag Vill. Rathela Ambagan, P.O. Kanchannagar, Dist. Burdwan.	Burdwan Main	From 18-1-1984
30.	Ashoke Kr. Chakraborty Vill. Mobarakpur, P.O. Debipur, Dist. Burdwan.	Burdwan Main	14-11-1983 to 17-1-1984
31.	Kali Sankar Biswas Kalibazar, Kachari Road, P.O. & Dist. Burdwan.	Debipur	From 25-1-1985
32.	Chira Jiban Das, Boronilpur, P.O. Ambagan, Dist. Burdwan.	Burdwan Burra Bazar	21-11-1983 to 19-1-1984
33.	Dipankar Dey Burdwan.	Div. Office	15-2-1984 to 13-4-1984
34.	Prodip Kr. Dutta Sarbamomgala Para 43 No. D.N. Sarkar Dist. Burdwan.	Div. Office,	14-11-1983 to 17-1-1984
35.	Basudev Mandi, Vill. P.O. Paharihathi, Burdwan.	Burdwan Main	From 17-5-1984
36.	Gopal Ch. Mukherjee Vill. Daspur, P.O. Kaligram, Dist. Burdwan.	Debipur	30-3-1985 to 28-5-1985
37.	Tarun Kr. Mukherjee Vill. Dalui Bazar, P.O. Rasulpur, Dist. Burdwan.	Burdwan Main	From 25-7-1984

1	2	3	4
38.	Seailen Kr. Banerjee Vill. Dalui Bazar, P.O. Rasulpur, Dist. Burdwan.	Burdwan Main	From 18-9-1984
39.	Chandranath Chakraborty P.O. Bedia, Dist. Burdwan.	Div. Office	12-9-1983 to 14-11-1984
40.	Barun Kr. Mondal Vill. & P.O. Mirjapur, Dist. Burdwan.	Burdwan Div. Office,	9-2-1984 to 13-4-1984
41.	Gopinath Goswami, Tea Corner, Dist. Burdwan.	Burdwan Main	From 9-3-1985
42.	Nitish Kr. Sarkar Nutan Pally, Ambagan, Dist. Burdwan.	Burdwan Main	12-9-1983 to 17-11-1983
43.	Sk. Nujibar Rahman, Metia, P.O. Mohachandi. Dist. Burdwan.	Burdwan Main	From 11-4-1985
44.	Ashish Kr. Das Raniganj, Burdwan	Chora Branch	20-12-1983 to 21-12-1984 2-1-84 to 25-2-84 5-3-84 to 31-3-84 2-4-84 to 21-4-84
45.	Bijan Chowdhury	Bhandarhati Branch	1983 to 1984
46.	Rudra Deb Roy	Benachity Br.	1983 to 1985
47.	Shanti Nath Maji Vill. & P.O. Mohachanda, Burdwan.	Debipur Br.	75 days
48.	Nirod Baran Down	Benachity	75 days
49.	Sri Kanta Mondal Vill. Gopalpur Dist. Burdwan.	Benachity	75 days
50.	Fatick Ch. Sadhu	Bahula	75 days
51.	Bhut Nath Nandi	Steel city	75 days
52.	Ajit Kr. Mondal Vill. Gopalpur, P.O. Durgapur-3, Dist. Burdwan.	Chora	75 days
53.	Brindaban Mandal	Banachity	75 days
54.	Sadhan Kr. Banerjee Vill. Dangapara P.O. Hadigoria Dist. Burdwan.	City Centre	75 days

2. The present reference relates to the claim of re-employment of 53 workers who were terminated/retrenched from service by the management of UCO Bank. It is stated on behalf of All India UCO Bank Staff Federation, which has sponsored the dispute, that the UCO Bank which was earlier known as United Commercial Bank is one of the nationalised Banks having its Head Office at 10, Brabourne Road, Calcutta. It has its Divisional Office at Burdwan and the Divisional Office controlled the branches of the said Bank in the districts of Burdwan, Midnapore, Hooghly and Birbhum in West Bengal. It is stated that there were 75 such branches under this Divisional Office and a Divisional Manager happens to be the chief of the said office. It is further stated that there are large number of vacancies of sub-staff in the division due to increase in the business of the Bank and due to opening of new branches and also due to retirement of some staffs. It is further stated that from March, 1983 onwards the said Divisional Manager asked the Employment Exchange of Burdwan and Midnapore to send names of candidates for appointment as sub-staff and the Employment Exchange forwarded the names of such candidates to the Divisional Office. The Divisional Office then called the candidates or authorised the Branches to take interview of the candidates. After the interview there were medical tests when the candidates were selected and a panel of names were prepared regarding the selected candidates. It is also further stated that from this panel the Bank gave employment to the candidates as sub-staff and posted them in various branches of the Bank in the Division. It is stated that though the candidates were interviewed and selected before empanelment, after completion of 75 days of service the Bank terminated the services of the sub-staff as appointed and again gave temporary appointment to another batch of people from the said panel prepared by the Bank after calling candidates from the Employment Exchange. The said batch was also removed from service without confirming them in service. This way about 53 persons were appointed temporarily from the panel and were removed. They were also given appointment letters and wages were paid, but subsequently the Bank terminated their services illegally. It is, therefore, stated that the action of the Bank in terminating the services of these persons instead of confirming them is malafide, illegal and contrary to the provisions of the Desai Award and Bipartite Settlement of 1966. The relevant clause 20.12 of the said Bipartite Settlement has been quoted which reads as follows:

"Other things being equal temporary workman (other than godown keeper's) will be given preference for filling permanent vacancies and if

selected they may have to undergo probation." But, the Bank did not adhere to this principle and adopted unfair labour practice. According to the union all the posts against which these candidates were appointed were of permanent nature and therefore the candidates were eligible to be confirmed and treated as permanent sub-staff of the Bank. It is stated that all these persons were duly sponsored by the Employment Exchange at Durgapur and Burdwan and they got offer of appointment after waiting for a long time. Thus they also lost their seniority and chance of future prospects. It is stated that large number of vacancies still existed in the grade of sub-staff in the Bank in Burdwan Division and also in other divisions of the Bank in West Bengal as also in other states of the Bank. It is stated that the concerned employees have been terminated/retrenched from service in illegal manner and since they are workman of the Bank as per section 2(s) of the Industrial Dispute Act, 1947, they are eligible to be employed and absorbed as permanent employees of sub-staff cadre of the Bank as per Section 25H of the said Act. Therefore, it is stated that the termination or retrenchment of the aforesaid persons is illegal and malafide. Accordingly a prayer has been made that all the 53 employees in the schedule to the reference be reinstated as full-time staff of the Bank from the date of their appointment. It is also prayed that they are entitled to the salary and wages for the period for which they have remained out of job because of illegal retrenchment and they are also entitled to other benefits, such as, bonus and to seniority also.

3. A written statement was also filed on behalf of the management to contest the claim of the union and it has been stated, inter-alia, that the reference is misconceived and suffers from misjoinder of causes of action. It is, however, admitted that the 54 employees regarding whom the reference has been made did not work in the same establishment of the Bank and therefore the matter could be considered only regarding a particular establishment separately. It has further been stated on behalf of the management that the UCO Bank has its Divisional Office at Burdwan which used to control all the branches of the Bank in the districts of Burdwan Bankura, Midnapore, Hooghly, Purulia and Birbhum in West Bengal before 1983. But now the area of administration of Burdwan Division of the Bank is confined to the districts of Burdwan, Bankura, Purulia and Hooghly only. It is stated that the branches of Birbhum district has gone to the jurisdiction of a separate Divisional Office at Suri in Birbhum district and branches of Midnapore district have come under the control of a separate division as Howrah. It is stated that vacancies caused due to transfer promotion, resignation, death and

are part of continuous process of an institution like bank. However, in 1984 Government of India imposed ban on recruitment in all public sector undertakings, including the banks and therefore no vacancy could be filled up even though such vacancies arose from time to time. It is stated that the Reserve Bank of India report revealed that the productivity measure in terms of the volume of business per employee was the lowest in this Bank and therefore this Bank has shown utmost austerity and stringency in new recruitment. Accordingly the management has maintenance redistribution and reallocation of duties and jobs among the existing manpower in order to achieve optimum level of output and productivity in the Bank. It is also stated that actually some new branches, to be prased eight, were opened in this division during the period 1985-1986. But, due to ban on recruitment, only one peon cum-Farash in the subordinate cadre was provided by the Head Office for each of these branches from the approved panel maintained in the Head Office at Calcutta. However, in March, 1983 the Divisional Office at Burdwan invited names of eligible candidates for preparation of a panel of Peon cum Farash in the subordinate cadre for recruitment in new branches in the district of Burdwan and Hooghly. For this purpose a written test was held in October, 1983 at Burdwan and the necessary papers were sent to the Head Office at Calcutta where the same were examined and the list of successful candidates on the basis of written test was sent to the Divisional Office and the thereafter the Divisional Office held interviews of the successful candidates in August-September 1984. Thereafter, on the basis of the marks obtained by them in the interview, the Head Office prepared final panel for recruitment to the post of Peon-cum-Farash in the subordinate cadre from the said panel and accordingly the candidates were made available to the new branches on permanent post. It is stated that the names of Subhas Chandra Konar and 53 others meaning thereby the concerned persons in this references were not sponsored by the Employment Exchange for the purpose of recruitment to the post of Peon-cum-Farash for the new branches. On the other hand, the names of these persons were forwarded for temporary appointment and as their names were not sponsored for permanent appointment they could not be appointed against permanent post. The persons whose names forwarded by the Employment Exchange and who were empannelled after written test interview were different from the said 54 persons and some of such persons empannelled have accordingly been appointed in the new branches and as no vacancy existed in the other branches it was made for the other branches. It is also further stated that some vacancies of temporary

nature were caused due to subordinate staff going on leave or transferred to other branches without joining of substitute in the different branches. Therefore, the Branches where such situation occurred requested the local Employment Exchange to send the names of eligible candidates for temporary appointment for a period not exceeding 75 days. It was done for the purpose of managing the business of such branches. The persons whose names appear in the annexed list were offered employment purely on temporary basis and for a period of 75 days only. As frequently the necessity of sub-staff arose in such branches due to transfer or staff and due to staff proceeding on leave, the branches called for the names from the local Employment Exchange and temporary appointments were offered to such persons. It was for the purpose of obviating the difficulties of administrative problem of the branches. This practice is followed from time to time. Accordingly, these concerned persons were also temporarily appointed for a period not exceeding 75 days and as the stipulated period expired, they were terminated. Therefore, it has been stated that there is nothing illegal in the termination of these workman, because they were appointed only for a fixed tenure. Such appointment of purely temporary nature for a fixed period does not entitle any workman to reinstatement or reappointment or absorption or confirmation as claimed. It is also stated that actually no vacancy is presently existing in any branches of Burdwan Division, because wherever a few vacancies arose in some branches it was filled up by redistribution and reallocation of duties and jobs among the existing staff and no appointment is being made in the vacancies existing in the branches due to the ban on recruitment. It is, therefore, stated that the circumstances are clear enough to show that the 54 concerned workman are not entitled to be re-employed or absorbed. It has been clearly denied that any vacancy exists in the branches in the Division at Burdwan or that any recruitment on such post has been made. Therefore, the question of absorption or re-employment of these persons does not arise. It has also been stated that no panel was actually prepared by the Divisional Office as alleged on behalf of the union and actually different branches requested their local Employment Exchange for sponsoring the names of 5/6 candidates from which they made appointed on purely temporary basis for a period not exceeding 75 days and that was also to meet the exigency caused due to transfer and the staff proceeding on leave. It has been clearly stated that wrong allegation has been made in the statement of claim filled on behalf of the union that in place of the concerned after their removal, fresh appointment have been made from some other candidates. As a matter of fact, all such

fresh appointments have been made from a panel prepared separately for the purposes of filling up permanent vacancies and the names of the concerned workman were never forwarded by the Employment Exchange for preparation of the panel, not did they participate in the written test of interview taken for this purpose. Therefore, it has been stated that the concerned 54 persons are not entitled to any relief which-so-ever.

4. After the written statement of the management was filed, a rejoinder has been filed by the union in which certain remarks have been made regarding certain paragraphs.

5. Thereafter one petition was also filed on behalf of the management on 20-02-1990. It has been stated in this petition that two of the aforesaid 54 persons, namely, Bijon Chowdhury and Ashis Kr. Das were actually not appointed even on temporary basis. Rather, they had worked for some time in two different branches on casual basis. It is stated that Bijon Chowdhury had worked for four years in this manner with interruptions but has not even completed 240 days of work and Ashis Kr. Das worked only for 56 days during the year 1983-84. It is also further stated that since after the raising of this dispute there was an agreement between the unions and the Bank in which it was decided that those workers who had worked for 240 days with or without interruption during the period of 3 years immediately preceding 19-10-1989 would be empannelled for further appointment. But, none of the concerned workman have worked for more than 75 days in all and therefore they are not entitled to be empannelled as per this agreement and the sponsoring union being a party to this agreement is not entitled to raise this dispute to claim their re-employment.

6. A large number of witnesses have been examined on behalf of the union. It appears that most of the 54 persons whose claim has been sponsored by the union in this reference were examined to support their claims. The total number of witnesses examined for the union is 36. Two of them, namely, WW-25, Chitta Ranjan Mondal and WW-36, Debdas Mukherjee happened to be the office bearer of the union and the rest 34 are from amongst the 54 concerned workman whose cause has been sponsored by the union.

7. WW-25 happens to be the Joint Secretary of the union. He claims that he is conversent with the facts of the dispute under reference. Accordingly to him the matter concerns non-

absorption of the 54 workmen retrained by the management of the bank. He stated that the names of these workmen were sponsored by the Employment Exchange and these workmen also used to perform the duties of sub-staff. It has been stated that though the appointment letters of these workman shown that their services were temporary, the union believes that their services were of permanent nature and they were appointed against permanent vacancies. It is stated that these persons were appointed as sub-staff to cope with the increased volume of work in the branches. However, in his cross-examination, he admitted that these workmen were appointed for temporary period and they worked only upto the expiry of the period as mentioned in their appointment letter. He also further admitted that the Bank held an examination for recruitment of permanent sub-staff in October, 1983 and since the concerned workmen were not eligible for appearing in the said test in terms of the circular issued by the Bank, they did not appear in the test. He also further stated that a penal has been prepared incorporating the names of successful candidates in the said test and the Bank has absorbing those successful candidates. However, he claimed that he could ascertain on enquiry only regarding increase in the volume of work in the Bank, but he stated that he is unable to say whether the Bank is running at loss to the tune of Rs. 1200 crores up to the financial year 1996. He also expressed his ignorance to the fact that the Reserve Bank of India declared the UCO Bank as over-staffed.

8. WW-36, Debdas Mukherjee happens to be the President of the sponsoring union, i.e., the All India UCO Bank Staff Federation and he claimed that he was conversent with the facts of the case. He stated that 54 workmen worked against permanent vacancies as subordinate staffs and they were being paid on monthly basis. He further stated that after the termination of services of the concerned workmen by the Bank, these posts were filled up by fresh recruitment. So, according to him, these persons have been terminated wrongfully and their reinstatement has been claimed. He also stated that the large number of vacancies of sub-staff was still existing in the Bank. In his cross-examination, he stated that he did not know whether the concerned workmen were appointed for a term of 75 or 90 days only and accordingly when it was suggested to him that they have been rightly terminated on the expiry of the term of their appointment, he denied the suggestion. He also denied the suggestion that the Bank has been running at loss and that no new recruitment is being made in the Bank in terms of the circular issued by the Government of India. However, he

admitted that the concerned workmen did not appear in the test held by the Bank in October, 1983 for fresh recruitment as there was no notification issued by the Bank in this regard.

9. Out of the rest 34 witnesses examined on behalf of the Union WW-1 is Dharam Das Dubey, WW-2 is Tapan Kumar Ray, WW-3 Dinesh Kr. Ghosh, WW-4 Lahit Baran Singha, WW-5 Nitish Chandra Sarkar, WW-6 Chirajiban Das, WW-7 Jiban Kumar Mukhopadhyay, WW-8 Kali Shankar Biswas, WW-9 Monohar Mondal, WW-10 Bupnath Mondal, WW-11 Karuna Shankar Samanta, WW-12 Sahadeb Kundu, WW-13 Pradip Dutta, WW-14 Ram Prosad Halder, WW-15 Amal Kumar Das, WW-16 Sahadeb Kumar Mondal, WW-17 Barun Kumar Mondal, WW-18 Dharendra Kumar Banerjee, WW-19 Chandra Nath Chakraborty, WW-20 Dilip Nag, WW-21 Durga Pada Dutta, WW-22 Sadhan Banerjee, WW-23 Ashoka Kr. Chakraborty, WW-24 Bhutnath Nandi, WW-26 Fatick Chandra Sadhu, WW-27 Sukumar Laha, WW-28 Shyamal Kumar Mishra, WW-29 Pradip Kumar Banerjee, WW-30 Gopal Chandra Mukherjee, WW-31 Khetra Nath Bhattacharjee, WW-32 Madhusudan Majhi, WW-33 Sailen Banerjee, WW-34 Ram Jiban Mukherjee, WW-35 Sudhir Kumar Mondal. The statements of all these witnesses are stereotype and they have also produced the relevant papers concerning their services and these papers have been marked as exhibits. But all these papers appear to be redundant and useless for the purpose of deciding the reference. These workers have produced their qualification certificates, their registration card of Employment Exchange, the letters issued to them calling them for interview, letters issued to them after selection for appointment, the appointment letters and also the termination letters and some of them have also produced the certificates granted by the respective Managers regarding the service rendered by them. So far as these facts are concerned, there is no dispute on behalf of the management that these persons were employed by the Bank in the different branches during the years 1983 to 1985 at different point of time on purely temporary basis for a fixed period. It has not been questioned that they were not registered in the Employment Exchange or that they did not possess the requisite qualification or that they were not called for interview or that they were not given appointment letters or that they were not terminated. So, these papers are only for the sake of record. It is admitted by the management excepting in case of two persons that they were temporarily appointed by the Bank for a fixed period of 75 days in most of the cases and they have worked between a period 75 to 90 days, because in some cases the period of

service of the workmen were also extended for few days on the same terms and conditions of appointment. So, the fact becomes admitted that at least 52 of the concerned workmen were appointed in the different branches of the UCO Bank during the years 1983, 1984 and 1985 for a fixed period on temporary basis and that they were terminated on the expiry of the period, including the extended period in the appropriate cases. Nothing of the facts have been denied on behalf of the management. However, the management has taken a stand that the UCO Bank was running at loss and the Reserve Bank of India had declared the Bank as over-staffed and in order to enforce the financial discipline the Govt. of India had issued a letter asking the Bank to restrict further appointments on the vacant posts and had directed the Bank to re-allocate the work by adjusting the existing staff. However, in the meanwhile, some new branches were going to be opened for which there was some necessity of appointment of sub-staff and therefore the Divisional Office at Burdwan had asked for some names of eligible candidates from the Employment Exchange in the year 1982. Such names were forwarded and the process was going on and ultimately a written test of such candidates were taken in October, 1983 and thereafter evaluation of the answer papers were made and candidates were called for interview and then a panel was prepared for appointment of sub-staff in those newly established branches. In the meanwhile, because of the exigency created due to transfer of staff from one branch to another without substitute joining and due to proceeding of some staff on leave and as there was delay in appointment due to process going on, some of the branches invited some names from the local Employment Exchange and after interviewing the candidates appointed them with clear stipulation that their appointment was on purely temporary basis for a fixed period of 60 days or 75 days. Accordingly, the concerned persons were appointed and on expiry of their term of appointment they were relieved of their jobs. All these facts become clear from the papers filed and exhibited on behalf of the union itself.

10. It may be noted that Ext. W-1 is the letter sent to Dharam Das Dubey on 4-7-1983 calling him for interview on 15th July, 1983. Ext. W-2 is the letter sent to the said Dharam Das Dubey by the Manager of the Bank at B-Zone, Durgapur informing him that he is considered for appointment for 75 days as sub-staff on a basic pay of salary of Rs. 245/- per month and that the service shall be liable to be terminated even prior to the stipulated period and tha

temporary service shall not confer any right on him for permanent employment and that he shall be subject to the rules of discipline and it was clearly stated in the letter that if he accepted the letter he is supposed to return three copies of the letter duly signed by him. It is obvious that it was an offer for acceptance of the candidate and on his accepting the offer he was appointed and thereafter through Ext. W-3 his service was terminated on completion of the period of service with effect from 31-12-83. In some cases certificates have also been granted by the Manager concerned. The example is W-10 which is the certificate granted by the Manager of Debiपुर Branch of the Bank to Dinesh Kumar Ghosh who had worked as Peon-cum-Farash for 75 days in the Branch. Ext. W-11 is the letter by which Dinesh Kr. Ghosh was informed that his period of 75 days was expiring on 29-10-1984. Therefore, all these papers filed and exhibited on behalf of the union do not have any special significance in proving the claim of the workman, other than the facts admitted by the management.

11. So far as the management is concerned, only two witnesses have been examined. They are MW-1, Haridas Biswas, Deputy Chief Officer at the Regional Office of the Bank at Cuttack, Orissa who happened to be an Officer of the Burdwan Division from 1981 to 1986 in the Personnel Department and MW-2, Shania Jyoti Roy happens to be Deputy Chief Officer of the Bank at the Regional Office at Burdwan. MW-1 has stated that out of the 54 persons involved in the reference, two, namely, Asish Chowdhury and Bijon Chowdhury were exceptions and the rest had worked in the Bank for a specified period in different branches. He also stated that they did not work against any permanent vacancy; rather, they worked against leave vacancies and for coping with the temporary increase in the volume of work. He also stated that there was no necessity of filling up of permanent vacancies by these workman as the process of filling up these vacancies in regular manner had already started. The witness further stated that permanent vacancies could not be declared in the Bank due to imposition of ban by the Govt. of India. In this regard he also proved a circular of the Bank dated 31-5-85 explaining the ban on creation of new posts and filling up to the vacancies, which is marked Ext. M-6. The witness further stated that a panel of candidates for appointment against permanent vacancies was subsequently prepared in 1988 and seven persons from that panel were appointed in terms of an order of the Hon'ble High Court of Calcutta. The witness has also given the procedure for filling up the permanent vacancies. According to him the names of candidates are sponsored by the Employment Exchange and then written examination and oral test is held and on

its basis a panel is prepared and thereafter selected candidates are appointed against permanent posts. Further, according to him the Branch Managers are not entitled to entertain applications for appointment and they can appoint persons only for a temporary and specified period to meet the exigency of the situation after obtaining necessary sanction from the higher authorities of the Bank. He also further stated that the names of the concerned persons were forwarded by the Employment Exchange to the respective Branch Managers who had issued appointment letters in favour of these candidates for specified period after taking their interviews and after obtaining sanction from the higher authority. According to him the terms and conditions of service were also mentioned in the requisition to the Employment Exchange where from the names were called for. He has clearly stated that for all kinds of appointments instructions issued by the Government of India have to be followed. According to him the concerned workmen had accepted their services knowing fully well that their employment were for temporary and specified period and in their case no requisition was made to the Employment Exchange for appointment against permanent posts. He said that none of the concerned workmen appeared in the written test for filling up permanent vacancies and presently there is no permanent vacancy in the Bank. The witness has also stated that per-employee business in the UCO Bank was the lowest and reallocation of work is made to obtain the maximum level of business per employee. According to him even the vacancies created by retirement of persons are not filled up due to ban. The witness has also further stated that by the end of March, 1998 the Bank have incurred a loss of Rs. 1736 crores and therefore considering the poor financial condition of the Bank there was no necessity of making appointment or creation of new post. According to him the R.B.I. had declared the Bank as over-staffed. He has stated that out of the 54 workmen, two persons, namely, Asish Das and Bijon Chowdhury have worked on daily wage basis in two different branches and whereas Ashis Das worked for 56 days and Bijoy Chowdhury had worked for 224 days between 1980 to 1983. The other workmen were allowed to work for the number of days mentioned in their appointment letters and the terms were not renewed. In this view of the matter, he has stated that their termination was not improper. In his cross-examination he has stated that the process for recruitment against permanent vacancy in Class-IV had started in 1982 by sending notification to the Employment Exchange by the Assistant General Manager of the Bank. In 1982 permanent vacancies were computed at 40 and at that time the concerned workmen were not even in the picture because they came into picture only during the years 1984, 1985. The witness has further stated that

excepting for 7 persons, who were directed to be employed by the Hon'ble High Court of Calcutta, the rest of the vacancies from the 40 vacancies calculated earlier could not be filled up because of the ban imposed by the Govt. of India. This ban was received in the early months of 1984. He has also further stated that since the permanent vacancies could not be filled up due to ban, temporary time-bound employment had to be made by the Bank to cope with the volume of work and for this purpose the Divisional Manager had empowered the Branch Managers to make appointment for specified period. He further stated that as Divisional Manager was not present at the relevant time the order was issued by the Assistant General Manager. He denied that any person was appointed in place of the retrenched persons involved in this reference.

12. MW-2 has stated that the different branches of the Bank had made requisition to the management for filling up some leave vacancies occurring in their branches and accordingly the management requisitioned the names from the Employment Exchange. Some persons were appointed on the basis of the names forwarded by the Employment Exchange. He has further stated that in the requisition slips of different branches the terms and conditions of employment were also specifically mentioned. He further stated that the concerned workmen had accepted the terms and conditions of their engagement and none of them had appeared in the written test held for recruitment of Class-IV staff. These persons were appointed only on the basis of interviews taken by the management. He further stated that the permanent vacancies caused due to retirement also cannot be filled up because of the ban on employment by the Govt. of India and in proof of this fact he produced the circular marked Ext. M-7 and another circular marked Ext. M-8. He also stated that since the Bank was running at a loss, no new appointment could be made. According to him the concerned workmen were allowed to work for a period for which they were appointed and their services were never extended and the terms renewed. He denied that the services of these workmen were wrongly terminated. In his cross-examination he has very clearly stated that after 1984 no new appointment in Class-IV has been made in the Bank. He also denied that a panel of 240 persons was prepared for appointment by the management of the concerned division on the basis of an agreement with the union. He also denied that the panel has exhausted after appointment. He also denied that any other person was employed in the place of the concerned workmen after their termination.

13. So far as the documents are concerned, Exts. M-1, M-2, M-3, M-4 and M-5 are the specimen of the letters issued by the respective Branch

Managers to some of the workmen regarding their terms and conditions of appointment. In these letters it was made clear that the workmen concerned were being appointed for 60 days to 75 days on payment of basic salary of Rs. 245/- per month. It was also made clear that their services were liable to be terminated at the discretion of the Bank even before the end of the stipulated period without assigning any reason and it was also made clear that the temporary appointment shall not entitle the workmen to claim further employment in the Bank. Therefore, both from the papers filed on behalf of the management as well as from the side of the union, it becomes clear that all these 54 persons, excluding two, were appointed on fixed term mostly for 75 days and it was clearly mentioned in the letters issued to them that their appointment shall be for that particular period and they shall have no right to claim their continuance in the Bank thereafter. It is therefore clear that the terms of appointment were known to these workmen before their appointment and they had accepted the terms. In such a situation if their services were terminated on expiry of the term of appointment, there was no question of their termination being illegal.

14. In this connection, it has also been submitted on behalf of the management that according to clause (bb) of Section 2(oo), which defines retrenchment, termination of service of the workman as result of non-renewal of the contract of employment between the employer and the workman concerned on its expiry of such contract under stipulation in that behalf contained therein is not to be included in the definition of the retrenchment and therefore it was not a case of retrenchment. However, it was submitted on behalf of the union that this clause (bb) was subsequently included in Section 2(oo) by the Act 49 of 1984 with effect from 18-08-1984 and since the clause has no retrospective effect, it cannot be applicable to the case of the workman concerned. The contention is justified to this effect, but it is to be noted that the services of many of the workman concerned, namely, Chandan Prakash Mukherjee, Pradip Banerjee, Debasis Gupta, Sahadeb Kr. Mondal, Tapan Kumar Laha, Dhiren Banerjee, Durgapada Dutta, Khetranath Bhattacharya, Anadi Dutta, Sailendra Nath Sarkar, Sahadeb Kundu, Ram Jiban Mukherjee, Sudhir Kumar Mondal, Rupnath Mondal, Karuna Shankar Samanta, Dinesh Kumar Ghosh, Gopal Chandra Mukherjee, Sailend Kr. Banerjee, Chandra Nath Chakraborty and Najibar Rahaman were terminated after August, 1984 which is the effective date of this amended clause and therefore their case is obviously not covered by the definition of retrenchment. So far as the other persons were concerned, because their termination had taken place before August, 1984, therefore, it

could be termed as retrenchment. But, so far as the legality of the retrenchment is concerned, in view of the fact that they were appointed temporarily for a stipulated period and were terminated after expiry of the term, the termination or retrenchment cannot be said to be illegal or improper.

15. However, the present reference is not for consideration of the legality or otherwise of retrenchment. Rather, it is for deciding whether non-employment of these persons in the Bank after their termination under the provisions of Section 25H of the Industrial Disputes Act, 1947 is justified. In this connection it must be noted that there is no material to show that the permanent vacancies existed after their termination or that any appointment was made by the Bank, because on this point excepting for some oral evidence of vague nature, there is no positive material to prove it and the witnesses on behalf of the management categorically denied that any vacancy of the kind existed in the permanent cadre of Class-IV in the Bank for consideration of re-employment of these persons.

16. In this regard it is also necessary to note that from Ext.M-7 it appears that the Govt. of India in the Ministry of Finance had issued a circular restricting the appointment in the Bank by imposing a ban and Ext.M-6 is the letter issued by the General Manager (Personnel & Administration) of the UCO Bank to the Divisional Heads and Zonal Offices in which the ban was explained in detail. In clause 1 of the letter some exceptions were made in the matter of ban, but the cases of the concerned workmen is not covered by it. In this letter, Ext.M-6, it has been made clear that in view of the decision taken by the Bank for strict compliance of the ban order of the Govt. of India, no vacancy what-so-ever, whether operational or non-operational, arising at large and extra large branches were to be filled up as all such branches have excess staff. It has also been further stated that no man-to-man replacement was to be done. Surplus staff at one branch was supposed to be utilised at other branches where there was shortage vacuum created on account of the restriction was to be met by reallocation of duties amongst existing staff of the concerned branches. It has also been further stated that no extra staff was to be kept as a standby for relieving duties—leave vacancy or for any other type of cushioning. Further, it was also stated that vacancies created on account of transfer were also not to be filled up.

Ext.M-8 happens to be another letter issued on 29th April, 1985 by the Finance Department of the Government of India addressed to the Chief Executive of all public sector banks regarding maintenance of economy in expenditure and ban on creation of posts and filling up vacancies. Referring to the original

letter issued on 10th October, 1984 putting the ban, it has been stated in this letter that in view of the imposition of ban and having regard to the continued necessity for utmost economy in expenditure, it has been decided that the above instructions should stand extended until further order and it has also been stated that there should be a strict compliance of this order and any relaxation considered necessary should be sought from the Government.

17. It is, therefore, clear that the management of the Bank was helpless in giving accommodation of re-employment to the workman concerned even if they so liked and there is a clear and categorical assertion on the part of the management that no appointment against any permanent vacancy, excepting for the seven posts filled up under the orders of the Hon'ble High Court was made in the Bank. In such a circumstance, there is no scope for considering the claim of the workman concerned in this reference to direct the Bank to consider their case for further engagement on re-employment. The provision of Section 25H is meant for giving priority to such persons in the matter of appointment when it is made. But, when neither the posts existed, nor the appointment is being made, the question of considering the claim of the workman earlier retrenched or terminated on expiry of the term appointment does not appear to be feasible and proper.

18. Accordingly, I hold that the claim of the union is not fit to be allowed and the reference is accordingly answered and the matter is disposal of.

B. P. SHARMA, Presiding Officer

Dated, Kolkata,

The 31st August, 2001.

नई दिल्ली, 10 सितम्बर, 2001

का.आ. 2669.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक आफ इंडिया के प्रबंधन के संबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7/9/2001 को प्राप्त हुआ था।

[सं० एल-120.12/2/2000-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 10th September, 2001

S.O. 2669.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Jabalpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their

workman, which was received by the Central Government on 7-9-2001.

[No. L-12012/2/2000-IR(B-I)]
AJAY KUMAR, Desk Officer
ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, JABALPUR
(PRESIDED BY SHRI K.M. RAI)

CASE NO. CGIT LC/R/79/2000

Smt. Adhariya Bai,
W/o Late Jogiram Kurmi,
Chatidih, in front of Rajwa Colony,
Bilaspur (Chhattisgarh)

—Workman

Vs.

The Chief Manager,
State Bank of India,
Main Branch, Bilaspur
(Chhattisgarh)

—Management

AWARD

(Passed on this 20th day of August, 2001)

The Govt. of India, Ministry of Labour, New Delhi by Order No. L-12012/2/2000-IR (B-I) dtd. 24-5-2000 has referred the following dispute for adjudication to this Tribunal:

“Whether the action of the Management of State Bank of India Main Branch, Bilaspur in terminating the services of Smt. Adhariya Bai is justified? If not to what relief the said workman is entitled to?”

2. The workman did not appear before this Tribunal till 12.30 PM. Hence proceeded ex-parte against her.

3. The workman has not filed her statement of claim before this Court. It appears that she is not interested in pursuing her claim. In view of this fact, it is amply clear that no dispute exists between the parties in the present case.

4. In view of the above said facts no dispute award is passed. The workman is not entitled to any relief as claimed in this case.

5. Copy of the award be sent to the Government of India, Ministry of Labour, New Delhi for publication as per rule.

K. M. RAI, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2001

का.आ. 2670.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में केन्द्रीय

सरकार तुंगभद्रा ग्रामीण बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7/9/2001 को प्राप्त हुआ था।

[सं एल-12012/181/98-आई आर (बी-1)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 10th September, 2001

S.O. 2670.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Tungabhadra Gramin Bank, and their workman, which was received by the Central Government on 7-9-2001.

[No. L-12012/181/98-IR(B-I)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, BANGALORE
Dated, 30th August, 2001

PRESENT :

Hon'ble Shri V. N. Kulkarni, B.Com., LLB.,
Presiding Officer,
CGIT-cum-Labour Court,
Bangalore.

C.R. No. 9/99

I Party

Shri A. Bhojaraj,
C/o Amaraiah Swamy,
Toraladinni (PO),
Manvi-Taluk,
Raichur Distt.
(Advocate—Shri R. Nagendra Naik)

II Party

The Chairman,
Tungabhadra Gramin Bank,
Sanganakal Road,
Gandhinagar,
Bellary.
(Advocate—Shri B. C. Prabhakar)

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of Sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/181/98/IR (B-II) dated 22nd January, 1999 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the management of Tungabhadra Gramin Bank, Head Office, Bellary is justified in imposing the punishment of dismissal from service on Sri A. Bhojara. If not, to what relief the workman is entitled to?"

2. The first party was working with the Second party. Charge sheet was issued and enquiry was conducted. On the basis of the enquiry report first party was dismissed and therefore industrial dispute is raised.

3. Parties appeared and filed Claim Statement and Counter respectively.

4. The case of the first party in brief is as follows :

5. The case of the first party is that he was working as Clerk in the Second Party Bank. He joined the services of the bank on 26-7-1979. Chargesheet allegations were not correct and the charge sheet dated 1-8-94 is false. He has given details of the incidence of 1-8-94. He has also said that he has not committed any misconduct.

6. Regarding enquiry it is said that on the assurance of the Enquiry Officer he admitted the charge. It was also said to him that management would take lenient view and impose any minor punishment to him so he admitted the charge.

7. Regarding enquiry it is said that the report is not proper and the punishment is illegal and arbitrary. First party for these reasons has prayed to pass award in his favour.

8. The case of the second party in brief is as follows :

9. The Second party is a banking institution having high degree of honesty, integrity, devotion to duty and promptness in discharging the duties and high sense of discipline are invariably required from its employees. The first party committed misconduct and there was three charges against him. Details of Charge Nos. 1 and 2 are given in the Counter.

10. It is the further case of the management that the explanation given by the first party was not correct. Regarding enquiry it is categorically said that the enquiry is properly conducted and the Enquiry Officer is perfect.

11. It is the further case of the management that charges are proved against the first party and the punishment imposed is proper and legal. The management for these reasons and for some other reasons has prayed to reject the reference.

12. It is seen from the records that the management in order to prove that the enquiry is fair and proper examined MW1. Against this workman got examined as WW1.

13. It is seen from the records that this Tribunal by its order dated 20th July, 2001 has held that the

domestic enquiry is fair and proper and thereafter the case was posted for arguments.

14. It was argued by the learned counsel for the management that in the instant case the enquiry is held as fair and proper and going through the enquiry proceedings. It is clear that the charges are proved against the first party and in view of the decisions of Karnataka High Court and Hon'ble Supreme Court of India, this is not a fit case to take any lenient view and to invoke the provisions of Section 11A of the ID Act.

15. I have carefully perused all the enquiry proceedings and I am of the opinion that the enquiry report is perfect and there is no perversity in it. Charges are proved and the first party has failed to convince that this is a fit case to invoke the provisions of Section 11A of the ID Act. Temporary misappropriation is proved. The first party was working as a Clerk in the Nationalised Bank and it was expected from him to work honestly and sincerely. The evidence before the enquiry officer shows that the temporary misappropriation is proved and the report of the enquiry officer is perfect and it is not a perverse one.

16. Taking all this into consideration I am of the opinion that there is no merit in this reference and accordingly I proceed to pass the following order :

ORDER

The reference is rejected.

(Dictated to PA transcribed by her corrected and signed by me on 30th August, 2001.)

V. N. KULKARNI, Presiding Officer

नई दिल्ली, 10 सितम्बर, 2001

का.प्र. 2671.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार नॉर्थ ईस्टर्न रेलवे के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अस न्यायालय लखनऊ के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7-9-2001 को प्राप्त हुआ था।

[सं० एल-41012/135/99- आई आर (बी-1)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 10th September, 2001

S.O. 2671.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of North Eastern Railway and their workman, which was received by the Central Government on 7-9-2001.

[No. L-41012/135/99-IR(R-I)]
AJAY KUMAR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, LUCKNOW****PRESIDING OFFICER : RUDRESH
KUMAR****ADJUDICATION**

I.D. No. 11/99

Ref. No. L-41012/135/99/IR(B-I)

Dated : 9-9-1999

BETWEEN

Shri Om Prakash Yadav,
S/o. Shri Daya Ram Yadav,
C/o. Shri P. K. Tiwari,
96/196, Rohan Bajaj Len,
Old Ganesganj,
Lucknow-226001.

AND

The Divisional Railway Manager (P),
North Eastern Railway,
DRM Office, Ashok Marg,
Lucknow-226001.

AWARD

By reference No. L-41012/135/99/IR(B-I) dated 9-9-1999, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made over this industrial dispute between Shri Om Prakash Yadav S/o Shri Daya Ram Yadav, Lucknow and the Divisional Railway Manager (P), North Eastern Railway, Lucknow for adjudication.

The reference is produced as under :

“Whether the action of North Eastern Railway in terminating the services of Shri Om Prakash Yadav from 20-7-1984 from the post of Casual Labour/Khalasi was legal and justified ? If not, what relief the workman is entitled to ?”

2. In the claim statement, the workman has sought reinstatement on the basis of his continuous working for 133 days i.e. from 16-7-78 to 30-11-78, stating further that

under the Railway Establishment Code, a casual labour with continuous working for more than 240 days, derives status of an temporary employee and his services cannot be dispense with orally without observing prescribed procedures under the relevant rules. Since the workman had worked continuously for 133 days and so his discontinuance without notice and specifying reason was illegal, entitling him to relief of reinstatement with back wages. Next ground taken is that he, on basis of his having worked before 1980, was re-engaged from 12-2-83 to 11-5-83, 16-5-83 to 12-8-83, 18-8-83 to 13-11-83 and 30-4-84 to 28-7-84, and thus, continuously worked for more than 240 days in a calendar year. His termination without giving benefit of section 25(F), (G) and (H) was illegal and on this count also, he is entitled to reinstatement with back wages.

3. As it is clear from recitals of the reference order, the claim of temporary status on the basis working from 16-7-78 to 30-11-78 is not covered in it. It is explicit that the reference order seeks adjudication on termination of services of the workman from 20-7-1984 and not from 13-11-78. Admittedly, the rendering of earlier services were at a different place, in a separate department of the railway and had no proximity with the subsequent engagement w.e.f. 12-2-83. The second spell of engagement was approximately after five years in a different department under Loco Foreman, Gonda. In view of the said fact, it would be beyond the scope of reference to consider relief on the basis of 133 days continuous service in the first spell. Also, any relief after more than 22 years will not be legally justified when all the relevant records were weeded out, as stated by the management.

4. As regards the second spell of service detailed earlier in para 3, the claim of the workman is to be considered as whether he was terminated w.e.f. 28-7-84 ? and if so, whether any relief at this distance of time i.e. after more than 16 years can be given to him. No doubt, law of limitation is not applicable in the matter of industrial adjudication but the rule of prudence and natural justice disentitles the workman to put a stale claim after such a long time causing disadvantage to the management. It is consistent plea of the management that all the records have since been weeded out after ten years

under the rules and so it is, not in a position to admit or deny the facts or to give correct sequence of event, necessary for adjudication.

5. It has already been observed that relief on the basis of first spell of service till 11-7-78 is not covered by the scope of reference. In the second spell of service also, there appears to be a clerical error mentioning 20-7-84 as date of termination in place of 28-7-84. However, this mistake is insignificant.

6. Since 1-1-1981, there was complete ban on engagement of casual labours in the railway. However, it was permissible to engage casual labours with pre or post personal approval of the General Manager. The second spell of alleged engagement was after 1-1-1981 and so a pre or post personal approval of the General Manager was necessary. The materials on record and also the evidence place before this Tribunal, do not indicate that approval by the General Manager was ever accorded either before engaging if the workman or subsequent to the engagement. In either case, the engagement of the workman was against the ban order.

7. It is not proved that the workman continuously worked for 240 days in the second spell of enagmgnt. In letter dated 18-7-95 of the workman, addressed to the Railway Minister, Government of India, filed as a documentary evidence shows that he worked from 12-2-83 to 11-5-83 for 90 days and after break of 5 days he was re-engaged from 16-5-83 to 12-8-83 for 88 days, again after a break of 6 days he was engaged from 18-8-83 to 13-11-83 for 87 days and lastly after a gap of about 5 months from 30-4-84 to 28-7-84 for 90 days. There is not iota of evidence to explain the gaps, to justify continuity of service as defined in section 25-B of Industrial Disputes, Act. The workman was engaged in Loco Shed. Admittedly, Loco Shed, Gonda was closed in the year 1984 after dislisation and those surplus staff were not given work. This fact is pleaded by the workman in his affidavit. In para 13 of his affidavit he has admitted his removal on account of being surplus and his name not being in the live register on closure of Loco Shed. Names of casual labour find reference in live register only on being legally engaged as per procedure. Since his engagement was against the ban order, his name was not in the live register. In light of his admission of being surplus he was dropped and

there was no termination. This admission is sufficient to defeat the claim of the workman that there was no termination, in fact or law.

8. No doubt, the workman got his claim statement amended stating that in all 13 workers were surplus, out of which 12 workers were given work in different workshops viz. Carriage Workshop, Gonda, Medical, Gorakhpur and some of them in Running Room, Gonda. This averment does not state that the workman was senior to all of them. Nothing is stated whether those persons were legally engaged or not and their name found reference in live register. Also, there is nothing to indicate whether they were selected at different places or they were given preference on being surplus. This Tribunal cannot adjudicate about legality of re-engagement like other persons, as this would be beyond the scope of reference.

9. Thus, there was no termination as claimed and the workman is not entitled to any relief.

10. Award accordingly.

LUCKNOW

3-9-2001.

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 10 सितम्बर 2001

का.आ. 2672.-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार नोर्दन रेलवे के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय लखनऊ के पंनाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7/9/2001 को प्राप्त हुआ था।

[सं० एल-41012/161/99-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 10th September, 2001

S.O. 2672.—In pursuance of section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Lucknow as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Northern Railway and their workman, which was received by the Central Government on 7-9-2001.

[No. L-41012/161/99-IR(B-I)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, LUCKNOWPRESIDING OFFICER : RUDRESH
KUMAR

ADJUDICATION

I.D. No. 26/99

Ref. No. L-41012/161/99 IR(B-I)

Dated 11-11-1999

BETWEEN

Shri D. P. Awasthi,
Divisional President,
Uttar Railway Karmchhari Union,
39-II J, Multi Storey, Railway Colony,
Charbagh, Lucknow (in the matter of
Ramdeen).

AND

Divisional Railway Manager,
Northern Railway, DRM Office,
Hazratganj, Lucknow.

AWARD

By reference No. L-41012/161/99 IR(B-I) dated 11-11-1999, in the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2 A) of section 10 I.D. Act. (14 of 1947) made over the dispute between the Divisional President, Uttar Railway Karmchhari Union, Lucknow espousing cause of Ramdeen and Divisional Railway Manager, Northern Railway, Lucknow for adjudication. The reference is produced as under :

“Whether the action of Northern Railway in non granting Pension Group Insurance and Leave encashment benefits to Ramdeen, Gangman on his retirement on 31-12-1995 is legal and justified ? If not what relief the workman is entitled to ?”

2. As it would be evident from the reference, the consideration has to be confined judging legality, in not granting pension, group insurance and leave encashment to workman consequent on his retirement on 31-12-1995. The workman has filed a chart showing less payment of death-cum-retirement gratuity for Rs. 4967, which is not covered by the reference. The chart filed by the workman does not deal with group insurance, which might have been paid. However, leave

encashment for Rs. 7453 may be considered.

3. The main grievance of the workmen against the establishment is about denial of pension, despite admitted fact of his having worked for more than 20 years continuously, in construction organization of the Northern Railway. According to the workman, Ramdeen, he was appointed on 5-4-1975, as Gangman and initially worked under the Inspector of Works Construction, Kanpur and Lucknow. He attained temporary status on completion of 180 days service i.e. w.e.f. 4-10-1975. He was screened vide panel No. 36/539 dated 18-12-1993 for the purposes of regularization, and was also allotted P.F. No. 1102760/5496. During the service, the management got him medically examined as early as on 17-9-84 and he was found fit in category B-1. Despite the fact that workman was eligible for grant of pension but the management denied this benefit to him.

4. The management admitted employment of the workman w.e.f. 5-4-75, on work charge basis. He was over age at the time of his appointment which was later waived. The management, however, has denied that the workman was employed in open line construction unit. It is stated that he was appointed in a “project” and as per extant rules he could not acquire temporary status on completion of six months service. Rather, he was granted temporary status by the scheme framed under the direction of the Apex Court. Accordingly, the workman was given temporary status as per the scheme, w.e.f. 1-1-1983. However, the workman was not eligible to pension for reasons; he did not complete 10 years of qualifying service and also his services were not regularised till the date of his superannuation i.e. 31-12-1995.

5. The legal position is not disputed by the parties, that eligibility for pension required 10 years qualifying service and services must have been regularised before he laid down office. In the present case, the management contends that the workman did not put 10 years of qualifying service and further he was not regularised till superannuation though he continuously worked for more than 20 years.

6. Thus, it is necessary to determine whether Ramdeen was in “Project” or in construct organization of some non-project work and from which date his qualifying service should be counted, under the rules.

7. The initial date of appointment of the workman as casual labour is admitted to be 5-4-1975. Admittedly, he continuously worked from 5-4-75 to 9-3-77 i.e. about 705 days. According to workman, he derived temporary status on completion of 180 days service i.e. from 5-10-75, but the management has disputed this fact by stating that the workman was employed in "project" and he was granted temporary status w.e.f. 1-1-1983, as per the scheme framed for project workers. Also, he was not regularised.

8. If the contention of the management is admitted, the workman total period as temporary status employee was 12 years. Only 1½ of such service qualified for pensionary benefits and in this way, the period come to only six years. In this background it is necessary to determine whether the workman was a project worker covered by the scheme which granted him temporary status w.e.f. 1-1-1983, or he was working in construction organization out side project and he attained temporary status w.e.f. 5-10-1975. Admitted case, is, that Ramdeen worked continuously from 5-4-75 to 9-3-77. In year 1978 & 79 he was not on work. However, from 6-10-80 he continuously worked till the time of his superannuation. It is not denied by the management that the non working period in the years 1978-79 were not treated break in service and notional continuity was given in considering for all service benefits including retrial benefits. The onus to prove that the organisation in which the workman was working was under some "project" lies on the management. No evidence has been given to substantiate this fact. The management has simply relied on the service book of the workman in which seal of the authorities mentioned word "construction". It is not denied that construction units were functioning both in project and non-project organization. Rules define functional areas of project and open line construction units. Since the management did not lead evidence to show exact working unit of the workman in construction organisation and also did not show as how he remained not regularized despite successful screening, the Tribunal made some specific queries by order dated 30-4-2001, seeking clarifications from the management on points;

- (i) to name the project with year of sanction and relevant particulars with extension if any;

- (ii) the word "construction" mentioned against the designation of officers/officials in their office seal, whether signify 'project';
- (iii) No. of vacancies worked out in the year 1993 at the time of screening;
- (iv) Whether register with serial number of seniority was maintained in sending names for regularization as per list of screening. Upto what serial the screened workers were regularized, with lists of omissions, if any; and
- (v) In particular reference to schedule caste candidate, what were actual number of vacancies, number of candidates belonging to schedule caste in the screened list and number of such persons absorbed by Dec. 1995. Further-more, in all such cases whether seniority list was maintained?

Above clarifications were necessary in view of the fact, that in service record of the workman, word "project" was not found mentioned anywhere though the seal of the officers mentioned (construction). Likewise, the management failed to show reasons for not regularizing the workman, though he was successfully screened, and his over age waived. The management filed its report, along with letter No. 48/WA/Man power planning/99/Divn. Officer/Lko dated 2-7-2001 and report, of the Asstt. Personal Officer (Const)-II for Chief Administrative Officer/C dated 27-6-2001. The report of the Asstt. Personal Officer/Constt.-II dated 27-6-2001 is very specific at page 2 stating;

"The applicant was engaged/worked on work charge basis under the constt. Organization against the work given to the construction organisation by the railway board/HQR office. The work against which the applicant was engaged/worked was not 'project'.

In para 4 of the compiled report also, the management has admitted that the workman was not engaged in project. In view of the admission in the report, the workman cannot be treated to be a project worker. Accordingly, he acquired temporary

status on completion of 180 days continuous service w.e.f. 5-10-1975 and not on 1-1-1983. as fixed by the management on the service book. His qualified service for pensionary benefits has to be counted from 5-10-75 and not from 1-1-83. Taking above facts into consideration, the workman completed more than 10 years qualified services to make him eligible for pensionary benefits.

9. The workman was not regularized in service treating him to be project worker. The establishment did not consider his regularization taking his services in a non-project organisation. In view of finding above that the workman was not engaged in project and acquired temporary status w.e.f. 5-10-1975, it was obligatory on the management to reconsider his regularization treating him in construction organisation outside project and his continued service with status of temporary employee since 5-10-1975. He passed screening test successfully and also found medically fit. His overage at the initial appointment was also waived by the competent authority. In the above said circumstances, he should be treated regularized from the date his next junior was regularized in open line construction organisation. It has already been held that the workman completed qualifying service to make him eligible for pension. Accordingly, it is held that the action of the management was not justified in denying pension to the workman Ramdeen.

10. In view of the above conclusion it is not necessary to discuss non maintenance of seniority list etc. as was specified in quarries. The management has to compute his all retrial benefits including leave encashment afresh.

11. In conclusion, the workman is entitled to pension. His other retrial benefits in light of his service in open line construction organisation requires recomputation by the management in three months. After recomputation and deduction of the amount paid earlier, the management must pay outstanding balance if any, in two months thereafter failing which the workman would be entitled to interest @ 12% on the unpaid amount till the date of payment.

12. Award as above.

RUDRESH KUMAR, Presiding Officer
LUCKNOW
3-9-2001

नई दिल्ली, 11 सितम्बर, 2001

का.आ. 2673.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक आफ बीकानेर एण्ड जयपुर के प्रबलतंत्र के सबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-9-2001 प्राप्त हुआ था।

[स. एल-12012/363/98-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 11th September, 2001

S.O. 2673.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Bikanar & Jaipur and their workman, which was received by the Central Government on 10-9-2001.

[No. L-12012/363/98-IR(B-I)]

AJAY KUMAR, Desk Officer

अनुबध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय
जयपुर

आदेश संख्या एल-12012/363/98-आई आर (बी-1)
9-3-99

प्रकरण संख्या :— सी. आई. टी./जे-15/99

संजय कुमार पुत्र रतनलाल, राजाजी का बाग, पुलिस लाइन
के पास, अलवर

—प्रार्थी

वनाम

1. ब्रांच मैनेजर,
स्टेट बैंक आफ बीकानेर एण्ड जयपुर,
कृषि उपज मण्डी, अलवर
2. क्षेत्रीय प्रबंधक
स्टेट बैंक आफ बीकानेर एण्ड जयपुर,
मरोजनी, मार्ग, सी-स्कीम जयपुर

—अप्रार्थीगण

उपास्थित :—

प्रार्थी की ओर से :

अप्रार्थी की ओर से :

पंचाट दिनांक :

श्री एफ० एम० बेग

श्री अनुराग अग्रवाल।

10-8-2001

पचाट

केन्द्रीय सरकार के द्वारा उक्त आदेश के जरिये निम्न विवाद औद्योगिक विवाद अधिनियम, 1947 (जिसे बाद में अधिनियम, 1947 कहा गया है।) की धारा 10-ए के अन्तर्गत धारा (1) के खंड-घ के प्रावधानों के अन्तर्गत न्याय निर्णय हेतु निदेशित किया गया। —

“Whether the action of Branch Manager, S.B.B.J. Krishi Mandi Alwar is justified in terminating the services of the workman Shri Sanjay Kumar, Peon in the Month of March, 1997 after employing him from 27-6-65 to 1-2-97 as he has worked for more than 248 days of service and he was also not paid notice pay in lieu of notice of one month and retrenchment compensation in violation of S. 25-F of I.D. Act, 1947? If not to what relief the workman is entitled and from what date?”

प्रार्थी की ओर से स्टेटमेंट आफ क्लेम प्रस्तुत किया गया, जिसमें उल्लेख किया गया कि उसकी प्रथम नियुक्ति दिनांक 27/6/95 को अप्रार्थी प्रबंधक के अधीन हुई थी। नियुक्ति तिथि से वह निरन्तर कार्य कर रहा था एवं प्रत्येक वर्ष में उसने 240 दिन से अधिक सेवा अवधि पूरी की अप्रार्थी द्वारा मार्च, 97 में उसकी सेवा समाप्त कर दी गई। सेवा समाप्त करने से पूर्व न तो उसे एक माह का नोटिस दिया गया व न उसके बदले में नोटिस वेतन। सेवा समाप्त करने से पूर्व कोई बरिष्ठता सूची भी नहीं बनाई गई व न प्रकाशित की गई। उसकी सेवा समाप्त करने के पश्चात अप्रार्थी द्वारा नई नियुक्तियां की गईं परन्तु उसे नियुक्ति में प्राथमिकता नहीं दी गई। दिनांक 9/11/95 से 31/5/96 की अवधि का भुगतान उसे दूसरे व्यक्ति के नाम से किया गया। अप्रार्थी द्वारा अधिनियम, 1947 की धारा 25-एफ, जी एवं औद्योगिक विवाद (केन्द्रीय) नियम, 1957 के नियम, 77, 78 का उल्लंघन कर उसकी सेवा समाप्त की गई। सेवा समाप्ति के पश्चात से वह बेरोजगार है। प्रार्थना की गई कि उसकी सेवा समाप्ति का आदेश अनुचित एवं अवैध घोषित किया जाए तथा उसे सेवा से लिए जाने का आदेश दिया जाए व उसकी सेवा सवैतनिक निरन्तर मानी जाए।

अप्रार्थीगण की ओर से जवाब में उल्लेख किया गया कि प्रार्थी को आवश्यकतानुसार स्टेट बैंक आफ बीकानेर एण्ड जयपुर (जिसे बाद में बैंक कहा गया) की शाखा कृष्ण उपज मण्डी अलवर में विशिष्ट कार्य तथा पानी की सप्लाई हेतु अनुबन्धित किया गया था। प्रार्थी बैंक का कभी भी स्थाई व अस्थायी कर्मचारी नहीं रहा। अधिनियम, 1947 की धारा 2 (ओओ) (बीबी) के प्रावधानों के अनुसार क्लेम चलने योग्य नहीं है। विजय साईकिल एण्ड इलेक्ट्रिकल्स स्टोर आवश्यक पक्षकार है, जिसे पक्षकार नहीं बनाया गया। प्रार्थी उक्त स्टोर का ही कर्मचारी था। शाखा प्रबंधक व क्षेत्रीय प्रबंधक कभी भी प्रार्थी के नियोजक नहीं रहे। प्रार्थी विजय साईकिल एण्ड इलेक्ट्रिकल्स

स्टोर, अलवर जिससे कि बैंक ने जनरेटर सैट किराए पर लिया था, के द्वारा जनरेटर चलाने हेतु रखा गया था, जिसकी समस्त मजदूरी का भुगतान उक्त स्टोर द्वारा प्रार्थी को किया जाता था जिससे बैंक का किसी प्रकार का सम्बन्ध नहीं था। प्रार्थी जब कभी बैंक में पानी के मटके लेकर आता व अन्य विशिष्ट कार्य करता था तो अनुबन्ध के अनुसार उसको बैंक द्वारा भुगतान कर दिया जाता था। अप्रार्थी द्वारा अधिनियम, 1947 के प्रावधानों का उल्लंघन नहीं किया गया। प्रार्थी के द्वारा जवाब का प्रत्युत्तर प्रस्तुत किया गया, जिसमें अप्रार्थी के कथन को कि अनुबन्ध के तहत उससे कार्य लिया गया, को गलत बताया। अप्रार्थी के कथन को कि वह विजय साईकिल स्टोर का कर्मचारी था का भी खण्डन किया गया। पत्र दिनांक 30-07-95 को फर्जी व बनावटी होने का उल्लेख किया।

पक्षकारों के अभिकथनों के आधार पर निम्नांकित विवाद बिन्दु बनाए गए —

- (1) आया प्रार्थी ने अप्रार्थी सम्मान में दिनांक 27-06-95 से फरवरी, 1997 तक निरन्तर कार्य किया ?
- (2) आया अप्रार्थी के द्वारा औद्योगिक विवाद अधिनियम की धारा 25-एफ, जी का उल्लंघन किया गया है ?
- (3) आया विजय साईकिल एण्ड इलेक्ट्रिक स्टोर प्रकरण में आवश्यक पक्षकार है ?
- (4) आया प्रार्थी ने केवल अनुबन्ध के अनुसार निष्पत्त कार्य किया ?
- (5) आया प्रार्थी कर्मकार की परिभाषा के अन्तर्गत नहीं आता ?
- (6) प्रार्थी किम सहायता को प्राप्त करने का अधिकारी है ?

प्रार्थी की ओर से माध्यम में स्वयं के (प्रदर्शन डबल्यू-1) एवं विजय कुमार (प्रदर्शन डबल्यू-2) के बयान कराए गए। विपक्षी की ओर से शाखा में प्रबन्धक दिनेश चंद बटवाड़ा (एम डबल्यू 1) व पूर्व शाखा प्रबंधक सुमल्लध जैन (एम डबल्यू 2) के बयान कराए गए व प्रत्येक माध्यम में प्रतिलिपि प्रदर्शन एम-1 से एम-7, प्रतिलिपि पत्र प्रदर्शन एम-8, प्रतिलिपि प्रार्थना-पत्र प्रदर्शन एम-9 व एम-10, प्रतिलिपि पत्र प्रदर्शन एम-11 से एम-13 प्रस्तुत किए। इसके अतिरिक्त प्रार्थी के द्वारा आवेदन प्रस्तुत किए जाने पर चार्ज रजिस्टर की प्रतिलिपि एवं वाउचर की प्रतिलिपियां प्रस्तुत की गईं, जिसका उल्लेख यथास्थान किया जाएगा।

पक्षकारों के विद्वान अधिवक्ताओं की बहस सुनी गई। प्रार्थी व अप्रार्थी की ओर से लिखित बहस भी प्रस्तुत की गई।

बनाए गए विवाद विन्दुओं का विनिश्चय निम्न प्रकार किया जाता है :—

विन्दु संख्या :— 1, 4 व 5 निर्देश आदेश में प्रार्थी के द्वारा दिनांक 27-06-65 से दिनांक 01-02-97 तक बैंक में कार्य किए जाने का उल्लेख किया गया है, जबकि प्रार्थी ने क्लेम में दिनांक 27-06-95 से फरवरी, 1997 तक कार्य किए जाने का उल्लेख किया है। शपथ-पत्र में प्रार्थी ने अप्रार्थी संख्या-1 के अधीन जुलाई, 1995 में नियुक्त होना व दिनांक 28-02-97 तक कार्य किए जाने का उल्लेख किया है। प्रार्थी के विद्वान प्रतिनिधि का तर्क है कि निर्देश आदेश में सन् 1995 के स्थान पर सन् 1965 त्रुटिबोध लिखा गया। उनके तर्क सारयुक्त है व यही प्रकट होता है कि निर्देश आदेश में सन् 1995 के स्थान पर सन् 1965 गलती से लिखा गया। यह उल्लेखनीय है कि प्रार्थी अपने शपथ-पत्र में दिनांक 27-06-95 से कार्य करना नहीं बताता है व जुलाई, 1995 से विपक्षी संस्थान में कार्य करना बताता है। प्रार्थी के विद्वान प्रतिनिधि ने लिखित बहस के साथ असफल वार्ता प्रतिवेदन की प्रतिलिपि प्रस्तुत कर तर्क दिया है कि प्रार्थी के द्वारा सेवामुक्ति मार्च, 1997 में बताई गई है। लिखित बहस के जवाब में अप्रार्थी की ओर से प्रार्थी के द्वारा प्रस्तुत प्रार्थना-पत्र दिनांक 24-06-98 सनक्ष समझौता अधिकारी के प्रस्तुत किया गया, जिसमें प्रार्थी ने सेवामुक्ति दिनांक 30-04-97 बताई है। यह उल्लेख करना उचित होगा कि उक्त प्रार्थना-पत्र का उल्लेख असफल वार्ता प्रतिवेदन जो कि प्रार्थी की ओर से प्रस्तुत किया गया है, में भी किया गया है। इस प्रकार समझौता अधिकारी के सनक्ष प्रार्थी के द्वारा सेवामुक्ति की तारीख मार्च, 97 एवं 30-04-97 बताई गई है। इसका क्या प्रभाव होगा इस बाबत आगे विचार किया जाएगा।

प्रार्थी की ओर से बैंक में नियुक्ति की बाबत कोई नियुक्ति पत्र प्रस्तुत नहीं किया गया। प्रार्थी स्वयं ने कहा है कि नियुक्ति मौखिक आदेश से जुलाई, 95 में की गई। विपक्षी की ओर से जवाब में यह उल्लेख किया गया है कि प्रार्थी संजय सार्किन स्टोर जिसमें कि बैंक में जेनरेटर सेट किराए पर लिया गया था, का कर्मचारी था, जिसकी मजदूरी का भुगतान उक्त स्टोर के स्वामी द्वारा किया जाता था। प्रार्थी के आवेदन पर उक्त साक्षी के स्वामी विजय कुमार जैन को साक्ष्य में प्रस्तुत किया गया। इस साक्षी के बारे में यह उल्लेख करना उचित होगा कि बाबजूद तामील नोटिस के वह दिनांक 6-6-2001 को साक्ष्य हेतु उपस्थित नहीं आया जिस पर उसे वारन्ट से तबब किया गया। विजय कुमार जैन का कथन है कि दिनांक 4-7-95 को बैंक की शाखा कृषि उज मण्डी का उद्घाटन हुआ तभी से उसने बैंक को उक्त शाखा में जेनरेटर किराए पर लगाया वह तभी से उसने प्रार्थी को बैंक में उक्त शाखा में कार्य करने देखा है। बैंक जेनरेटर किराए के उसे 1300/- रुपये मंजूर देता था। पत्र प्रदर्श एम-8 उसके द्वारा लिखा गया है, जिसमें उसने जेनरेटर चलाने हेतु संजय कुमार जैन

(प्रार्थी) का नाम इसलिए लिख दिया कि मैनेजर उसकी दुकान पर आए व ऐसा निजने को कहा। पत्र दिनांक 3-7-95 प्रदर्श एम-8 जो कि उक्त साक्षी के द्वारा हस्तालिखित है में उल्लेख है कि उसने बैंक की उक्त शाखा में जेनरेटर किराए पर लगा दिया है। जेनरेटर को चलाने के लिए संजय कुमार निवासी अंतर को रखा हुआ है, जिनकी लाईट जने पर जेनरेटर चालू व बन्द करने की जिम्मेदारी होती। उसका कथन है कि लगभग 2 वर्ष उक्त जेनरेटर किराए पर रहा। संजय कुमार द्वारा जेनरेटर चलाने वाली बात दबाव डाकेन पर लिखाई थी। उसने फिर कहा कि मैनेजर से उसके पारिवारिक संबंध थे इसलिए उसने पत्र प्रदर्श एम-8 में उक्त उल्लेख कर दिया। उसने स्वीकार किया कि मैनेजर के दबाव से उक्त बात नहीं लिखी। उसने कहा जेनरेटर चलाने हेतु उसने एक सड़के का स्वामी नियुक्त किया हुआ था, जिसका नाम धनस नहीं। वह वही नहीं बता सका कि बैंक में जेनरेटर कौन चलाता था? बैंक आफ बड़ीदा में जेनरेटर किराए पर दे रखा है जिन वृत्तमय बताता है। एक जेनरेटर एम.बी.वी.जे., एडोबी ग्रांच पर किराए पर दे रखा है जिन मुरारी लाल शर्मा चलाता है। मुरारी लाल शर्मा का खर्चा वह स्वयं वहन करता है, बैंक उसे भुगतान नहीं करती। उसने स्वीकार किया कि जेनरेटर के किराए में जेनरेटर चलाने की मजदूरी सम्मिलित होती है। उसने यह भी स्वीकार किया कि इस प्रकरण के प्रतिनिधित्व ग्रन्थ किसी का उदाहरण नहीं दे सकता जिसमें जेनरेटर चलाने की जिम्मेदारी जेनरेटर किराए पर लेने वाले की रही हो। समस्त चन्द जैन तत्कालीन शाखा प्रबंधक का कथन है कि वह बैंक की कृषि उज मण्डी शाखा में दिनांक 4-7-95 से नवम्बर, 1996 तक शाखा प्रबंधक के रूप में कार्यरत था। विजय कुमार जेनरेटर मालिक की उसने कोई रिस्पेन्दारी नहीं है। विजय सार्किन स्टोर ने दिनांक 20-6-95 को विपक्षी बैंक को जेनरेटर चलाने हेतु कोटेशन प्रदर्श एम-11 दिया था, जिसमें उसने अपनी स्वयं की जिम्मेदारी बताई थी। पत्र प्रदर्श एम-12 कोटेशन की स्वीकृति हेतु क्षेत्रीय प्रबंधक को भेजा था, जिने पत्र प्रदर्श एम-13 के द्वारा स्वीकृत किया गया था। प्रथम तो विजय कुमार जैन का ही कथन विरोधाभासी है कि उसने प्रार्थी का नाम जेनरेटर चलाने हेतु बैंक के प्रबंधक के दबाव में लिखा अथवा पारिवारिक संबंध होने के कारण। दूसरे समस्त चन्द जैन के कथनानुसार विजय कुमार जैन से उसके कोई पारिवारिक संबंध नहीं थे, अतः विजय कुमार बैंक के इस कथन पर कि "पत्र प्रदर्श एम-8 में जेनरेटर चलाने के लिए संजय कुमार को रखा हुआ है," बैंक मैनेजर के पारिवारिक संबंध होने के कारण लिख दिया, विपक्षी कहें जाने योग्य नहीं है। उसका यह कथन भी विपक्षी कहें जाने योग्य नहीं है कि जेनरेटर चलाने का दायित्व उसका न होकर बैंक का था, जबकि ग्रन्थ दूसरों को जिम्मेदार जेनरेटर किराए पर दिया, जेनरेटर चलाने का दायित्व उसी पर था। प्रार्थी का यह कथन कि पत्र प्रदर्श एम-8 दिनांक 3-7-95 को बनावटी व झूठा है व उसकी सेवामुक्ति के बाद बनाया है व संजय कुमार के नाम का उल्लेख उसने

संबंधित नहीं है। उनी के माथी बिजय कुमार जैन से गजत प्रमाणित हो जाता है। प्रार्थी के विद्वान प्रतिनिधि ने तर्क दिया है कि कोटेशन प्रदर्श एम-11 में जेनरेटर का मासिक किराया 1400/- रुपये माहवार का उल्लेख किया गया है, जिसकी स्वीकृति क्षेत्रीय प्रबंधक के द्वारा प्रदर्श एम-13 द्वारा दी गई है, जबकि जेनरेटर का किराया 1300/- रुपये माहवार दिया गया है, जैसा कि चार्ज रजिस्टर में उल्लेख है। हम यारे में यह उल्लेख करना पर्याप्त होगा कि बिजय कुमार जैन ने कबल किया कि बैंक 1300/- रुपये माहवार किराया देता था। कोटेशन के बावत पक्ष-कारों में आपस में यह तर्क किया जा सकता था कि जेनरेटर का किराया क्या होगा? अतः 1300/- रुपये माहवार जेनरेटर किराया देने से जेनरेटर बैंक को किराए पर देने का तथ्य संदिग्ध नहीं हो जाता। इस प्रकार यह प्रमाणित है कि प्रार्थी को बिजय कुमार जैन ने बैंक में जेनरेटर चलाने हेतु नियोजित किया हुआ था।

प्रार्थी के द्वारा यह प्रमाणित करने हेतु कि वह बैंक का कर्मचारी था बिपक्षी के द्वारा प्रस्तुत वाउचर एवं चार्ज रजिस्टर पर भरोसा किया गया है। रसीद प्रदर्श एम-1 दिनांक 6-10-95 में दुकानदार सुरेश के द्वारा उल्लेख किया गया है कि उसने बैंक की साइकिल के दो पंक्चर निकाले, जिसके 6 रुपये प्राप्त किए। सुरेश दुकानदार के नीचे प्रार्थी के हस्ताक्षर हैं। वाउचर प्रदर्श एम 2 से एम 8 पर प्रार्थी ने अपने हस्ताक्षर होने स्वीकार किए हैं।

अप्रार्थी के द्वारा निम्न वाउचर के आधार पर निश्चित दर पर निम्न अवधि में पानी सप्लाई करने की मजदूरी का भुगतान प्रार्थी को किया गया है :-

वाउचर	दिनांक	अवधि	दिन	रकम
1	2	3	4	5
एम 2	8-8-95	25-7-95 से 8-8-95	15	455-00
एम-3	13-9-95	27-8-95 से 13-9-95	18	490-00
एम 9	15-3-96	मटके व रिक्शा किराया के	—	50-00
एम 4	22-8-96	1-5-96 से 21-5-96	21	425-00
एम 5	31-5-96	22-5-96 से 31-5-96	10	225-00
—	29-6-96	18-6-96 से 29-6-96	12	275-00
—	17-7-96	01-7-96 से 17-7-96	17	375-00
एम 6	31-7-96	18-7-96 से 31-7-96	14	300-00

1	2	3	4	5
---	20-8-96	01-8-96 से 20-8-96	20	480-00
---	20-9-96	01-9-96 से 20-9-96	20	400-00
---	28-9-96	21-9-96 से 28-9-96	08	200-00
---	19-10-96	01-10-96 से 19-10-96	19	400-00
एम-7	31-10-96	21-10-96 से 31-10-96	11	250-00
---	18-11-96	01-11-96 से 18-11-96	18	325-00
---	30-11-96	19-11-96 से 30-11-96	12	250-00
---	31-12-96	01-12-96 से 31-12-1996	31	625-00

इसके अतिरिक्त वाउचर प्रदर्श एम-10 के द्वारा प्रार्थी को बैंक में क्लर रखवाने की मजदूरी वतीर 40 रुपये का भुगतान किया गया है। इस प्रकार उक्त वाउचरों के अनुसार प्रार्थी ने मत् 1995 में दिनांक 25-7-95 से 8-8-95 एवं 27-8-95 से 13-9-95 के बीच की अवधि में कुल 33 दिन पानी सप्लाई करने की मजदूरी व दिनांक 1-5-96 से 31-12-96 के बीच कुल 213 दिन की अवधि में पानी सप्लाई करने की मजदूरी प्राप्त की।

प्रार्थी के विद्वान प्रतिनिधि का तर्क है कि प्रार्थी की प्रथम नियुक्ति जुलाई, 1995 में हुई जिसका वेतन का भुगतान दिनांक 10-8-85 को हुआ जिसका इन्द्राज चार्ज रजिस्टर के पृष्ठ 8 पर दर्ज है। चार्ज रजिस्टर के पृष्ठ 8 पर प्रार्थी को बतौर पानी के भुगतान बावत 455 रुपये के भुगतान की प्रविष्टि है जो कि वाउचर प्रदर्श एम-2 से संबंधित है जिसमें उसके द्वारा दिनांक 25-7-95 से दिनांक 8-8-95 के बीच पानी सप्लाई करने की मजदूरी का भुगतान चाहा गया है। प्रार्थी के विद्वान प्रतिनिधि का तर्क है कि अगस्त माह के वेतन व भुगतान की प्रविष्टि चार्ज रजिस्टर के पृष्ठ संख्या-9 पर व सितम्बर माह के वेतन भुगतान की प्रविष्टि चार्ज रजिस्टर के पृष्ठ 10-11 पर दर्ज है। चार्ज रजिस्टर के पृष्ठ संख्या-9 पर 490 रुपये की प्रविष्टि संजय कुमार के नाम से बतौर विविध खर्च के की गई है। चार्ज रजिस्टर के पृष्ठ 10 पर दिनांक 13-9-95 को प्रार्थी को विविध खर्च में 490 रुपये का भुगतान किया गया है जो प्रविष्टि प्रदर्श एम-3 से संबंधित है जिसके द्वारा प्रार्थी ने दिनांक 27-8-95 से 13-9-95 के बीच पानी सप्लाई की मजदूरी की मांग की है। चार्ज रजिस्टर के पृष्ठ संख्या-11 पर प्रार्थी के नाम से दिनांक 29-9-95 को 420 रुपये की विविध खर्च भुगतान की बावत प्रविष्टि की गई है। इन प्रविष्टियों में ऐसा उल्लेख

नहीं है कि बतौर वेंचन के प्रार्थी को भुगतान किया गया। प्रार्थी के विद्वान प्रतिनिधि का तर्क है कि अक्टूबर माह के भुगतान का वाउचर अप्रार्थी के द्वारा प्रस्तुत किया गया है। अक्टूबर, 95 में प्रार्थी को भुगतान बाबत अप्रार्थी की ओर से कोई वाउचर प्रस्तुत नहीं किया गया व न चार्जेंज रजिस्टर में ऐसी कोई प्रविष्टि है।

प्रार्थी के विद्वान प्रतिनिधि का तर्क है कि दिनांक 9-11-95 से मई, 1996 के बीच प्रार्थी ने दूसरे व्यक्ति के नाम से भुगतान प्राप्त किया। प्रार्थी ने जवाब के प्रत्युत्तर में दिनांक 9-11-95 से 30-4-96 के बीच दूसरे नामों से भुगतान प्राप्त करने का उल्लेख किया है। दिनांक 1-5-96 से 21-5-96 व 22-5-96 से दिनांक 31-5-96 के बीच प्रार्थी को वाउचर प्रदर्शन एम-4 व एम-5 के द्वारा भुगतान किया गया है, जिनका उल्लेख ऊपर किया जा चुका है। अतः मई 1996 में प्रार्थी का दूसरे नाम से भुगतान प्राप्त करने का कथन असत्य है। इस प्रकार सन् 1995 में बैंक के द्वारा प्रार्थी को पानी भरने की मजदूरी के रूप में वाउचर प्रदर्शन एम-2, एम-3 के आधार पर 33 दिन व चार्जेंज रजिस्टर के पृष्ठ संख्या-9 के आधार पर 490/- रुपये व पृष्ठ संख्या 11 के आधार पर 420 रुपये का भुगतान प्रार्थी को विविध खाते में किया जाना प्रमाणित है। प्रार्थी के विद्वान प्रतिनिधि का तर्क है कि दिनांक 21-8-96 से 31-8-96 तक कार्य करना अप्रार्थी द्वारा प्रस्तुत दस्तावेजों में स्पष्ट है। उक्त अवधि के बाबत कोई वाउचर प्रस्तुत नहीं किया गया व न चार्जेंज रजिस्टर में इस बाबत कोई प्रविष्टि है, अतः यह प्रमाणित नहीं होता कि प्रार्थी को दिनांक 21-8-96 से 31-8-96 के बीच कार्य करने के बाबत मजदूरी का कोई भुगतान किया गया। प्रार्थी के विद्वान प्रतिनिधि का तर्क है कि दिनांक 1-6-96 से 17-6-96 के बीच कार्य करने के बाबत चार्जेंज रजिस्टर के पृष्ठ 36 में प्रविष्टि है। चार्जेंज रजिस्टर के पृष्ठ 36 में संजय कुमार को 350/- रुपये का भुगतान विविध खाते में किया गया है। प्रार्थी के विद्वान प्रतिनिधि का तर्क है कि दिनांक 21-8-96 से 31-8-96 का वाउचर अप्रार्थी के द्वारा पेश नहीं किया गया है, जिसके संदर्भ में प्रार्थी ने लिखित बहस के साथ शपथ-पत्र प्रस्तुत किया है। यदि दिनांक 31-8-96 के वाउचर के द्वारा प्रार्थी को भुगतान किया गया होता तो उसका इन्द्राज चार्जेंज रजिस्टर में होता। चार्जेंज रजिस्टर में प्रार्थी को भुगतान किए जाने बाबत कोई प्रविष्टि नहीं है, अतः प्रार्थी के विद्वान प्रतिनिधि के उक्त तर्क को स्वीकार नहीं किया जा सकता। प्रार्थी के विद्वान प्रतिनिधि का यह तर्क है कि दिनांक 1-1-97 से 31-1-97 तक चार्जेंज रजिस्टर में दिनांक 31-1-97 को संजय के नाम से भुगतान किया गया जिस बाबत प्रार्थी ने शपथ-पत्र में उल्लेख किया है। उक्त दिनांक को चार्जेंज रजिस्टर में घाटर सप्लाई व पानी की सप्लाई के बाबत प्रार्थी को भुगतान किए जाने के बाबत कोई प्रविष्टि नहीं है व पानी की सप्लाई बाबत 67.5/- रुपये की भी प्रविष्टि की गई है वह काट दी गई है। इस प्रकार जनवरी, 1997 में प्रार्थी को पानी सप्लाई करने के बाबत कोई भुगतान किया जाना प्रमाणित नहीं है। यह उल्लेख

करना भी उचित होगा कि अप्रार्थी की माध्य समाप्ति होने के बाबत प्रार्थी के प्रार्थना-पत्र पर चार्जेंज रजिस्टर तलब किया गया है व अप्रार्थी को इस बारे में कोई अवसर नहीं मिला की चार्जेंज रजिस्टर की प्रविष्टियों के बारे में वह कोई स्पष्टीकरण देता। प्रार्थी के विद्वान प्रतिनिधि का यह भी तर्क है कि फरवरी, 1997 का वाउचर अप्रार्थी के द्वारा प्रस्तुत नहीं किया गया है। फरवरी, 1997 के चार्जेंज रजिस्टर में प्रार्थी को भुगतान किए जाने को कोई प्रविष्टि नहीं है। अतः फरवरी, 1997 में प्रार्थी को पानी सप्लाई करने के बारे में कोई भुगतान किया गया, प्रमाणित नहीं होता।

उक्त विवेचन से यह प्रमाणित नहीं है कि प्रार्थी ने वर्ष 1995 में 25-7-95 से पूर्व विपक्षी संस्थान में कार्य किया व दिनांक 25-7-95 से उसने निरन्तर दिसम्बर, 1995 तक लगातार कार्य किया। प्रार्थी का यह कथन कि उसे दिनांक 9-11-95 से 31-5-96 के बीच सुरेश व संतरा के नाम से भुगतान किया गया, भी स्वीकार किए जाने योग्य नहीं है। संतरा देवी के नाम से दिनांक 20-12-95 को कुल 50/- रुपये का भुगतान किए जाने की प्रविष्टि है व उक्त अवधि में सुरेश, संतरा के नाम से अन्य कोई प्रविष्टि नहीं है। यह कथन इस कारण भी विश्वास किए जाने योग्य नहीं है कि जब दूसरी अवधि का भुगतान उसके नाम से किया गया है तो उक्त अवधि में अन्य के नाम से भुगतान क्यों कर किया जाता? इस प्रकार उक्त विवेचन से प्रार्थी के द्वारा वाउचर प्रदर्शन एम-2 व एम-3 के आधार पर 33 दिन व इसके अतिरिक्त चार्जेंज रजिस्टर के पृष्ठ संख्या-9 के आधार पर विविध खाते के तहत 490/- रुपये व चार्जेंज रजिस्टर के पृष्ठ-11 के आधार पर सितम्बर, 1995 में 420/- रुपये विविध खाते के तहत भुगतान किया जाना प्रमाणित है। इसके अतिरिक्त सन् 1995 में प्रार्थी को अन्य किसी मजदूरी का भुगतान किया जाना प्रमाणित नहीं है। इस प्रकार सन् 1995 में उसके द्वारा 240 दिन की अवधि में पानी सप्लाई के अन्दर मजदूरी का भुगतान किया जाना प्रमाणित नहीं है।

प्रार्थी के द्वारा मेवा समाप्ति मार्च, 1997 में बताया गई है। इससे पूर्व की एक वर्ष की अवधि में दिनांक 1-5-96 से 31-5-96 के बीच प्रार्थी के द्वारा 213 दिन व चार्जेंज रजिस्टर के पृष्ठ संख्या-36 में की गई प्रविष्टि दिनांक 1-7-96 से 17-10-96 की अवधि में प्रार्थी के द्वारा पानी सप्लाई करने की बाबत मजदूरी का भुगतान मान भी लिया जाए तो भी प्रार्थी के द्वारा उक्त अवधि में कुल 230 दिवस की अवधि में प्रार्थी के द्वारा पानी की सप्लाई करने बाबत भुगतान किया जाना प्रमाणित होता है। जनवरी, 1997 व फरवरी, 1997 में अप्रार्थी के द्वारा प्रार्थी को पानी सप्लाई करने की मजदूरी के बारे में कोई भुगतान किया जाना प्रमाणित नहीं होता। इस प्रकार प्रार्थी के द्वारा उक्त अवधि में ही अप्रार्थी बैंक में पानी की सप्लाई किया जाना प्रमाणित होता है। यह उल्लेख करना भी उचित होगा कि उक्त अवधि में प्रार्थी ने किस-किस दिन व कौन-कौन सी तारीख को पानी सप्लाई किया, स्पष्ट नहीं है।

अप्रार्थी के विद्वान अधिवक्ता का तर्क है कि प्रार्थी ने अनुबन्ध के आधार पर पानी सप्लाई किया व मजदूरी प्राप्त की, अतः प्रार्थी को अप्रार्थी के नियोजन में होना नहीं कहा जा सकता। पानी सप्लाई करने के बारे में कोई लिखित अनुबन्ध प्रस्तुत नहीं हुआ है। प्रार्थी ने बैंक को पानी सप्लाई किया व एक निश्चित दर से पानी की मजदूरी प्राप्त की। प्रार्थी का कथन है कि उसे प्रबन्धक ने कहा था कि यदि प्रार्थना पत्र में ऐसा उल्लेख नहीं किया तो उसे मजदूरी का भुगतान नहीं होगा। प्रथम तो प्रार्थी ने क्लेम में ऐसा उल्लेख नहीं किया कि बैंक के प्रबन्धक के द्वारा धमकी दिए जाने के कारण उससे मजदूरी के बाबत प्रार्थना पत्र लिखवाए जाते थे। दूसरे उसका कथन है कि धमकी के बारे में प्रबन्धक से उसने शिकायत की। यहाँ यह उल्लेख करना उचित होगा कि प्रार्थी ऐसा साक्षी नहीं है जो पूर्णतया विश्वसनीय हो। उसका यह कथन कि प्रदर्श एम-8 झूठा है व फर्जी है पर विश्वास नहीं किया गया है। उसके इस कथन पर कि उसे दूसरे नाम से भुगतान किया गया पर भी विश्वास नहीं किया गया। अतः उसके इस कथन पर भी कि प्रबन्धक की धमकी के कारण उसने पानी सप्लाई की मजदूरी की बाबत मांग की पर विश्वास नहीं किया जा सकता। उसका कथन है कि उसकी हाजिरी होती थी। यदि उसकी हाजिरी होती थी तो यह हाजिरी रजिस्टर तलब करा सकता था। जबकि प्रार्थी के साक्षी दिनेश चंद बटवाड़ा का कथन है कि प्रार्थी की कोई हाजिरी दर्ज नहीं होती थी। निश्चित अवधि में प्रार्थी के द्वारा बैंक को समय-समय पर निश्चित दर पर पानी सप्लाई करने की बाबत मजदूरी प्राप्त करने के आधार पर प्रार्थी को बैंक के नियोजन में मानना इस कारण से कठिन है कि प्रार्थी बैंक में पानी सप्लाई करने अथवा न करने के लिये स्वतंत्र था। प्रार्थी पर विपक्षी बैंक का कोई नियंत्रण नहीं था। जब-जब प्रार्थी ने पानी सप्लाई किया बैंक ने उसका निश्चित दर से भुगतान कर दिया। प्रार्थी उक्त अवधि में संजय साईकिल स्टोर का कर्मचारी था। तर्क के लिये यदि मान भी लिया जाए कि वह बैंक का अंशकालीन कर्मचारी था तो भी सेवा समाप्ति के पूर्व के वर्ष में उसके द्वारा 240 दिन कार्य किया जाना प्रमाणित नहीं होता। उक्त बिन्दुओं का विनिश्चय इसी प्रकार किया जाता है।

बिन्दु संख्या 3:— अप्रार्थी के विद्वान अधिवक्ता ने इस बिन्दु पर जोर नहीं दिया, अतः इस बिन्दु का विनिश्चय अप्रार्थीगण के विरुद्ध किया जाता है।

बिन्दु संख्या 2:— उक्त विवेचन से प्रार्थी व अप्रार्थी के बीच कर्मकार व नियोजक का सम्बन्ध प्रमाणित नहीं हो पाया है। अतः अधिनियम, 1947 की धारा 25-एक के प्रावधान आकृष्ट नहीं होते। विकल्प में यदि यह मान भी लिया जाए कि प्रार्थी ने पानी सप्लाई कर बैंक में अंशकालीन कर्मकार के रूप में कार्य किया है तो भी उसके द्वारा सेवा समाप्ति के पूर्व के वर्ष में 240 दिन कार्य किया जाना प्रमाणित नहीं होता व इस कारण अधिनियम, 1947 की धारा 25-एक के प्रावधान आकृष्ट नहीं होते। यह भी

उल्लेखनीय है कि अप्रार्थी के द्वारा जनवरी व फरवरी, 1997 में कोई कार्य किया जाना प्रमाणित नहीं होता व उसने समझौता अधिकारी के समक्ष सेवा समाप्ति दिनांक 30-4-97 को किया जाना बताया है। ऐसी दशा में दिनांक 1-3-97 को उसकी सेवा समाप्ति की गई यह भी प्रार्थी के अनुसार संदिग्ध है। इस अधिकरण का क्षेत्राधिकार निर्देश आदेश में वर्णित विवाद बिन्दु तक ही सीमित है। अधिनियम, 1947 की धारा 25-जी का उल्लंघन किए जाने के बारे में कोई उल्लेख नहीं है। अतः अधिनियम, 1947 की धारा 25-जी के प्रावधानों का उल्लंघन किए जाने पर विचार नहीं किया जा सकता। वैसे भी यह प्रमाणित नहीं है कि प्रार्थी से कनिष्ठ व्यक्ति प्रार्थी की सेवासमाप्ति के पश्चात् विपक्षी संस्थान में नियोजन में रहे। अतः अधिनियम, 1947 की धारा 25-जी का उल्लंघन होना प्रमाणित नहीं है।

बिन्दु संख्या 6:— उक्त विवेचन के आधार पर प्रार्थी कोई सहायता प्राप्त करने का अधिकारी नहीं है।

पंचाट की प्रतिलिपि केन्द्रीय सरकार को अधिनियम, 1947 की धारा 17 की उपधारा (1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जाए।

ह०/- अपठनीय

पीठासीन अधिकारी

नई दिल्ली, 11 सितम्बर, 2001

का.आ. 2674.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जयपुर नागौर आंचलिक ग्रामीण बैंक के प्रबंधन के संबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक/अधिकरण श्रम न्यायलय जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-9-2001 को प्राप्त हुआ था।

[सं. एल-12011/7/2000-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 11th September, 2001

S.O. 2674.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Jaipur as shown in the Annexure in the Industrial Disputes between the employers in relation to the management of Jaipur Nagaur Aanchalik Gramin Bank and their workmen, which was received by the Central Government on 10-9-2001.

[No. L-12011/7/2000-IR(B-I)]

AJAY KUMAR, Desk Officer.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
JAIPUR

Case No. CGIT 33/2000

Reference No. L-12011/7/2000-IR(B-I)

Dated 27-6-2000.

The Secretary, Gramin Bank,
Employees Union Unit,
J.N.A.G.B., 56 S. P. Marg,
'C' Scheme, Jaipur.

Applicant Union

V/s.

The Chairman,
Jaipur Nagaur Aanchalik Gramin Bank,
56, S. P. Marg, C-Scheme,
Jaipur(Raj.).

Non-Applcantee

ATTENDANCE

For the applicant:—None.

For the non-applicant.—Shri Ashok Mehta.
Date of Award : 30-7-2001.

AWARD

The Central Government vide order mentioned above has referred the following dispute under clause (d) of sub-section (1) and sub-section 2(A) of section (10) of the Industrial Disputes Act, 1947 (hereinafter referred as Act, 1947) for adjudication.

"Whether the action of the management of Jaipur Nagaur Aanchalik Gramin Bank, Jaipur of deducting the one day salary for 10-6-98 for the day of Dharna as per No Work No Pay rule policy was justified though the concerned employees submitted their leave application for the said day? If not, what relief the workmen/employees are entitled?"

The claim was filed by Gramin Bank Employees Union (hereinafter referred as Union) stating that the union is registered under the Trade Unions Act, 1926 and represents the majority of the employees working in the Jaipur Nagaur Aanchalik Gramin Bank (hereinafter referred as the Bank). It is the duty of the Union to seek redressal of grievances of its members. Some members and office bearers of the Union and the Gramin Bank officers organisation unit had submitted leave application for one day i.e. 10-6-98, which was granted. They also received salary for the month of June, 1998 without any deduction. The management of the Bank however, issued circular dated 7-9-98 to restrict trade union activity on the basis of which the Bank management deducted one day's salary by stating that on 10-6-98 employees and officers staged "Dharna" against the management for their respective demands, which was illegal and there was no justification in submitting the leave application. It is alleged that the above action of the management is mala fide and illegal and is an unfair labour practice. The concept "No work No pay" is not applicable in the present case. It was prayed that the non-applicant may be directed not to deduct the one day's salary for 10-6-98 for the day of "Dharna".

The non-applicant in the reply stated that it has not been disclosed as who are the members of the Union and, therefore, the claim is not maintainable on behalf of the Union. It was stated that leave applications were submitted on 10-6-98 before the Branch Manager by the employees working in the branch and the employees and the officers working in the head office forwarded their applications to the head office. No leave was sanctioned to any employee for 10-6-98. The employees who set on "Dharna" on 10-6-98 are not entitled to the leave with pay on the basis of the principle "No work No pay". In the leave application the ground for seeking leave was wrongly stated as organisation-work and, therefore, was not bona fide. The employees, who sought leave for their personal work and who did not set on Dharna were granted leave. Six employee's and officer's salary has been deducted on the basis of the principle of "No work No pay". The allegation about unfair labour practice was denied.

The applicant also filed rejoinder to the reply reiterating the facts alleged in the claim petition. It was further stated that it is not correct that the benefit of paid leave cannot be granted for taking part in trade union activities.

The parties have not produced any evidence.

The case was fixed for arguments today. None has appeared on behalf of the applicant Union. Heard arguments of the learned counsel for the non-applicant.

It is not disputed that certain union employees had submitted leave application for 10-6-98. The case of the applicant is that leave was granted while the case of non-applicant is that leave was not granted. The applicant has not produced any order regarding sanction of leave. Merely because salary was paid for the month of June, 1998 without any deduction for 10-6-98 it cannot be assumed that leave was granted. As per Regulation (22) of the Staff Service Regulations of the Bank an officer/employee cannot absent from duty without permission. Regulation (4?) provides that leave cannot be claimed as a matter of right. It further provides the leave will be refused when the exigencies of the service so require. Thus, the non-applicant was not under an obligation to grant leave for staging "dharna" by the employees in respect of their demands and, therefore, the action of the management of the Bank by deducting one day's salary for the day of dharna as per the policy of "No work No pay" cannot said to be unjustified. The employees, therefore, are not entitled to any relief.

The copies of the award may be sent to the Central Government under section 17(1) of the Act, 1947 for publication.

Sd.[-
Illegible
Presiding Officer

नई दिल्ली, 11 सितम्बर, 2001

The reference is produced as under :

का.आ. 2675—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नोर्थन रेलवे के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्याय मालय लखनऊ के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-9-2001 को प्राप्त हुआ था।

[सं.एल-41012/14/2000-आई आर (बी.-I)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 11th September, 2001

S.O. 2675.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court Lucknow as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Northern Railway and their workman, which was received by the Central Government on 10-9-2001.

[No. L-41012/14/2000-IR(B-I)]

AJAY KUMAR, Desk Officer
ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT LUCKNOW

Presiding Officer : Rudresh Kumar.

ADJUDICATION

I.D. No. 34/2000

Ref. No. L-41012/14/2000-IR(B-I)

Dated : 24-5-2000

BETWEEN

Shri Pooran Chandra Bose
S/o Shri Gyan Chandra Bose
C/o Sri Pervez Alam
283/63, Kha-Garhi Kanaora (Premvati Nagar)
P.O.-Manak Nagar
Lucknow.

AND

The Chief Works Manager
Loco Workshop,
Northern Railway,
Charbagh,
Lucknow.

AWARD

By reference No. L-41012/14/2000-IR(B-I) dated 24-5-2000, the Central Government in the Ministry of Labour, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made over this dispute between Shri Pooran Chandra Bose S/o Shri Gyan Chandra Bose and the Chief Works Manager, Northern Railway, Lucknow for adjudication.

"Whether the action of the Management in Terminating the services of Pooran Chandra Bose vide order dated 12-12-1999 by Chief Works Manager, Northern Railway, Lucknow was legal and justified? If not, what relief the workman is entitled to?"

2. The reference was later amended by corrigendum issued by the Ministry of Labour vide letter no. L-41012/14/2000-IR(B-I) dated 16-2-2001. The word 12-12-1999 was substituted by 12-12-1986.

3. According to the claim statement and the rejoinder, the workman was appointed as substitute labour and acquired temporary status w.e.f. 26-6-84. He continuously worked till 12-12-86 in the scale of Rs. 190-252, later revised Rs. 750-940. As an employee with temporary status, his services were governed by Railway Employees (Discipline and Appeal) Rules, which required inter alia, issuance of notice and formal enquiry before his termination. The management terminated his services orally without allowing any opportunity and thus, the action of the management was illegal and unjustified. Also, the workman had worked for more than 240 days in each calendar years and so his services could be dispense with only after due compliance of section 25-F of the industrial dispute Act, 1947. Relief of reinstatement with full back wages is sought by the workman.

4. The management in its written statement has denied valid engagement of Pooran Chandra Bose, either as a casual labour or a substitute labour. It is pleaded that the management had invited applications for engagement of casual labourers vide office notice No. 105/E/A dated 4-11-82. This invitation was open only to the sons of the staff who were retiring in the years 1984, 1985 and 1986. The applicants were required to possess minimum educational qualification class VIII passed. There were some other ladders besides, the age which should have been between 18 and 28 years on 20-12-82. According to the management, the workman filed forged certificate showing his educational qualification VIII passed. As soon as, this fact came to notice, his certificate was got verified and his services were dispensed with. The workman had knowledge of the said verification all along. Furthermore, the case was filed after 17 years without explaining reasons for the delay.

5. The parties have not disputed that father of the workman was working in the railways and taking advantage of the said office notice, the workman, had submitted his application on the prescribed form. There is no evidence that the workman was ever appointed as a substitute labour. The applications were invited for casual labourers, and so, any relief, the workman if found entitled to, has to be judged on the basis of his being on the panel of casual labourers and not a substitute labour.

6. The claim statement and also the rejoinder do not disclose grounds for seeking relief at such a belated stage, say more than 15 years. Despite this delay, it is proposed to consider the case on merit as well.

7. According to the management, the services of the workman were dispensed with by letter no. 949 dated 12-9-1980. This termination letter specifically mentions that Pooran Chandra Bose was engaged as a casual labourer on daily rates on production of educational certificate of class VIII pass and attained temporary status w.e.f. 20-7-84. The educational certificate of class VIII passed submitted by him was found to be false. In normal course, the very engagement on the basis of a forged certificate should have been treated as 'non-est engagement', but the management discharged him from the service after paying him one month wages amounting to Rs. 1013 in lieu of notice period together with retrenchment compensation amounting to Rs. 1519.50 along with his monthly wages for the period of 1-12-86 to 13-12-86 amounting to Rs. 438.90. It is, thus, evident that the management had complied with the provisions of Section 25-F of the Industrial Dispute Act, 1947 in dispensing with his services as casual labourer. The workman has not denied receipt of compensation etc. as per letter no. 949 dated 12-9-96.

8. The submission of the workman, is, that on acquiring temporary status, he was governed by service rules and so an enquiry was necessary under the said rules before his termination. To decide this issue, it is necessary to go into the merit whether the workman was eligible to be appointed? And in this context whether the certificate filed by him was forged? The parties led evidence on this point whether the educational certificate was genuine/forged?

9. The reference order contains two specific areas for discussion: first; the legality of the action of the management and second; what relief this Tribunal may grant to the workman? If the educational certificate is found forged the very appointment on the said basis was fraudulent and so the appointment had to be treated 'non-est appointment'. In such situation, this Tribunal cannot grant relief of reinstatement despite non-observance of procedural safeguards, as in substance, the relief of reinstatement would perpetuate illegality.

10. In his cross-examination the workman stated to have gained entry in class VIII without having read in class VI and VII in any school. When confronted with school leaving certificate filed with the management, he denied its genuineness. He also filed a certificate Ex-2, which relates to scholar's register no. 6626 (A), in which column of the last institution is bank. Original certificate is not filed. Management disputed photocopy of certificate filed by the workman before this Tribunal, alleging the same to be against rules and also forged as no serial no. 6626 (A) could be possible. The management has filed photocopy of certificate filed by the workman at the time seeking engagement. This certificate shows admission of Pooran Chandra Bose on 9-7-74, in class VI. He remained in the school till 30-6-77. This certificate bears scholar's register no. 8326. A report by the Principal of the Sohan Lal Higher Secondary School, Rajendra Nagar, Lucknow indicates the scholar registration no. 8326 is the name of other scholar. This certificate was given in reference to the letter of railway no. 105-E/Confidential dated 31-12-99. Before this letter, the verification was made earlier in October,

1986 but the letter was found missing in the connected file and so this second letter was sent for verification on 31-12-99. Management examined Senior Personnel Officer, Siya Ram and also, Banarsi Prasad Verma clerk, of the Sohan Lal Inter College, Rajendra Nagar, Lucknow. MW-2 Banarsi Prasad Verma stated that at serial no. 3326, name of Dinesh Kumar Pathak s/o Ram Ratan Pathak finds reference. He also stated that in the registers maintained by the school there is no serial no. 6626 (A). The name of Ram Naresh S/o Shiv Lal is at serial no 6626. This witness was cross-examined by the authorised representative of workman but nothing could be elicited which may prove that MW-2 is making false statement. MW-2 was confronted with the remark Ex-3 on Ex-2, relied by the workman. He explained that the remarks are in his handwriting, which were in reference to the management's letter no. 108 dated 10.86 which related to other person. He wanted original to be shown which was not produced by the workman. Authorised representative of the workman submitted that the original should be with the management, and this implies this certificate bearing 6626(A) is forged. The workman did not explain source of his certificate Ex-2, MW-2 explained that his remark Ex-3, was in reference to some other matter which apparently was planted on the fake certificate and got Xeroxed. This statement appears to be correct because all correspondence in relation to workman were in letter No. 105 and not in 108 which finds reference in Ex. 3.

11. The genuineness of the certificate is doubtful for reason of unusual serial no. as 6626 (A), which is normally not a serial number as stated by MW-2. Thus, in the totality of facts and circumstances, the only conclusion may be drawn is, that the workman, Pooran Chandra Bose got himself engaged on the basis of forged certificate, which was later detected. Since the certificate was forged the very engagement was illegal and temporary status could not have been derived on the basis of forged engagement. Relevant departmental rules are not applicable to such employees. The rule applies to those legally appointed and gained temporary status as per relevant provisions of the Railway Establishment Code.

12. In the present case the management took extra precaution and complied with the provisions of section 25-F by paying monetary benefits as provided in the said section, of the Industrial Dispute Act, 1947. The workman has not denied receipt of payments and so has admitted this document.

13. In light of the discussions made above, the action of the management was proper and justified in dispensing with the services of the workman who gained entry in the service of railway on the basis of a forged certificate and also received compensation etc. His termination was legal.

14. Award accordingly.

LUCKNOW
4-9-2001.

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 11 सितम्बर, 2001

का.आ. 2676.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-9-2001 को प्राप्त हुआ था।

[सं० एल-12012/152/96-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 11th September, 2001

S.O. 2676.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Bikaner & Jaipur and their workman, which was received by the Central Government on 10-9-2001.

[No. L-12012/152/96-IR(B-I)]

AJAY KUMAR, Desk Officer

अनुबन्ध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय,
जयपुर

प्रकरण संख्या :—सीजीआईटी-27/2000

निर्देश संख्या :—एल-12012/152/96-आईआर(बी-1)

दिनांक : 30-5-2000

गिरधर गोपाल सैनी

पुत्र श्री रामेश्वर लाल सैनी

मनपुरिया का मोहल्ला,

पोस्ट—श्री माधोपुर,

जिला :—सीकर (राज.)

—प्रार्थी

बनाम

दी जेनरल मैनेजर (इंडस्ट्रियल रिलेशंस)

स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर

हेड ऑफिस, तिलक मार्ग,

जयपुर (राज.)

—अप्रार्थी

उपस्थित

प्रार्थी की ओर से : श्री एफ.एम. बेग, अधिवक्ता

अप्रार्थी की ओर से : श्री अनुराग अग्रवाल, अधिवक्ता

पंचाट की तिथि : 25-07-2001

पंचाट

केन्द्र सरकार के द्वारा निम्न औद्योगिक विवाद अधिनियम, 1947 (जिसे बाद में अधिनियम, 1947 कहा गया है) की धारा 10 की उपधारा

एक के खंड (घ) के प्रावधानों के अन्तर्गत उक्त आदेश के जरिये न्याय निर्णयन हेतु निर्दिष्ट किया गया।

“Whether the action of the management of State Bank of Bikaner & Jaipur in terminating the services of Shri Girdhar Gopal Singh w.e.f. 21-1-79 and again from 12-8-90 without giving any opportunity of employment when his junior Shri Shankar Lal was employed is justified? If not, to what relief is the workman entitled and from which date?”

प्रार्थी की ओर से स्टेटमेंट ऑफ क्लेम प्रस्तुत किया गया जिसमें उल्लेख किया गया कि प्रार्थी की नियुक्ति स्टेट बैंक ऑफ बीकानेर एण्ड जयपुर (जिसे बाद में बैंक कहा गया है) की शाखा श्री माधोपुर में दिनांक 2-11-78 को स्थायी पद पर की गयी। वह उक्त पद पर नियुक्ति तिथि से निरंतर कार्य करता रहा व सेवा अवधि में 162 दिन कार्य किया। दिनांक 11-8-90 को अप्रार्थी द्वारा मौखिक आदेश से उसकी सेवा मुक्ति कर दी गयी। सेवा समाप्ति करने से संबंधित कोई वरीयता सूची नहीं बनायी गयी और न ही प्रकाशित की गयी। सेवा मुक्ति के समय उससे कनिष्ठ श्रमिक अप्रार्थी संस्थान में कार्यरत थे। सेवा समाप्ति से पूर्व न तो उसे एक माह की नोटिस दी गयी और न ही बदले में एक माह का नोटिस वेतन भुगतान किया गया। सेवा समाप्ति के पश्चात् अप्रार्थी द्वारा नई नियुक्तियों की गई किन्तु प्रार्थी को प्राथमिकता नहीं दी गयी। इस प्रकार, अप्रार्थी द्वारा प्रार्थी की सेवा समाप्ति, अधिनियम, 1947 की धारा 25-एफ, जी एवं एच तथा औद्योगिक विवाद (केन्द्रीय) अधिनियम, 1957 के नियम 77 व 78 का उल्लंघन कर की गयी। सेवा समाप्ति के पश्चात् वह बेरोजगार है। प्रार्थना की गयी कि उसकी सेवा समाप्ति को अवैध व अनुचित घोषित किया जाए तथा सेवा पृथक्करण के दिन से उसे सवैतनिक सेवा प्रदान करने का निर्देश दिया जाए।

अप्रार्थी की ओर से जवाब में प्रारम्भिक आपत्तियों की गयी कि बैंक, स्टेट बैंक ऑफ इंडिया (संश्लिष्टकारी बैंक्स) एक्ट, 1957 की धारा 4 के अनुसार अपना कानूनी अस्तित्व रखती है एवं कोई भी विवाद अथवा बाद बैंक के विरुद्ध प्रस्तुत किए जा सकते हैं, न कि, किसी अधिकारी के विरुद्ध। बैंक के अधिनस्थ स्टाफ की भर्ती के लिए एक प्रक्रिया है जिसके द्वारा एम्प्लॉयमेंट एक्सचेंज आदि से नाम मांगे जाते हैं व परिणामों के स्वतंत्र पर स्थाई नियुक्ति की जाती है। बैंक के परिपक्व संख्या कामकाज/42/87 दिनांक 23-04-87 के अनुसार उन सभी उन भूतपूर्व अस्थाई कर्मचारियों जिन्होंने बैंक में अस्थाई सेवाएँ की थी, बैंक में स्थाई नियुक्ति हेतु एक अवसर भारत सरकार वित्त मंत्रालय के निर्देश के अनुसार दिया गया था। बैंक ने प्रस्तावित टेस्ट के बारे में सभी अस्थाई कर्मचारियों को सूचना देने हेतु सभी महत्वपूर्ण हिन्दी एवं अंग्रेजी समाचार पत्रों में नोटिस प्रकाशित किया था। इस प्रकार औद्योगिक विवाद अधिनियम, 1947 की धारा 25-एच की पूर्णतया अनुपालना की गई। प्रार्थी द्वारा

उठाया गया विवाद अध्यादेश विनियमित है। बैंक ने औद्योगिक विवाद अधिनियम, 1947 की धारा 25-जी व एच का कोई उल्लंघन नहीं किया है। प्रार्थी के द्वारा सन् 1988-89 में लीज वेकेंसी के विरुद्ध कार्य किए जाने से स्थाई नियुक्ति के लिए कोई विधिक अधिकार नहीं मिलता। अस्थायी कर्मचारी की सेवा समाप्ति छंटनी के तहत नहीं आती।

प्रार्थी के द्वारा सन् 1978 में बतौर अस्थायी कर्मचारी माह नवंबर में 29 दिन, दिसम्बर में 31 दिन व सन् 1979 में जनवरी माह में 20 दिन (कुल 80 दिन) कार्य किया गया। उसके द्वारा वर्ष 1988 में 12, वर्ष 89 में 35 व वर्ष 90 में 27 अवसरों पर संविदानुसार तदनुसार राशि पर कार्य किया गया। अस्थायी नियुक्ति समाप्त करने से पूर्व वरीयता सूची बनाने की कोई आवश्यकता नहीं होती। प्रार्थी से कानून कोई व्यक्ति न तो बैंक की शाखा में कार्यरत था, न है।

प्रार्थी के द्वारा एक वर्ष में 240 दिन से अधिक कार्य नहीं किया गया और इस प्रकार अधिनियम, 1947 की धारा 25-एफ आकृष्ट नहीं होती। प्रार्थी ने बैंक के परिपत्र दिनांक 23-04-87 के अनुसार स्थाई नियुक्ति हेतु कोई आवेदन प्रस्तुत नहीं किया। बैंक के द्वारा नियुक्ति विज्ञप्ति देने पर व विज्ञप्ति के अनुसार प्रक्रिया अपनाकर ही दी गयी। प्रार्थी द्वारा आवेदन किया गया था किन्तु वह बैंक द्वारा प्रकाशित सूचना दिनांक 21-01-90 के अनुरूप नहीं थी। इसलिए, प्रार्थी का आवेदन अस्वीकार कर दिया गया जिसकी सूचना बाद में दे दी गयी।

पक्षकारों के कथनों के आधार पर निम्नांकित विवाद विन्दुओं की रचना की गयी :—

विवाद विन्दु :—

- (1) आया विवाद बैंक के विरुद्ध ही प्रस्तुत किया जा सकता है न कि किसी अधिकारी के विरुद्ध, यदि हां तो इसका प्रभाव ?
- (2) आया प्रार्थी की सेवा समाप्ति औद्योगिक विवाद अधिनियम, 1947 की धारा 25-जी, एच व औद्योगिक विवाद (केन्द्रीय) नियम, 1957 के नियम 77, 78 का उल्लंघन कर की गई थी ?
- (3) प्रार्थी क्या सहायता प्राप्त करने का अधिकारी है ?

प्रार्थी की ओर से क्लेम के समर्थन में शपथ पत्र प्रस्तुत किया गया जिस पर प्रतिपरीक्षा करने का अवसर अप्रार्थी के विद्वान अधिवक्ता को दिया गया। प्रार्थी की ओर से प्रलेखीय साक्ष्य में असफल वार्ता प्रतिवेदन की प्रतिलिपि प्रदर्श ७७५-1, प्रतिलिपि आदेश प्रदर्श ७७५-2, प्रतिलिपि प्राप्त रसीद प्रदर्श ७७५-3, प्रतिलिपि आवेदन प्रदर्श ७७५-4 व 5, प्रतिलिपि पत्र प्रदर्श ७७५-6, प्रतिलिपि पत्र बैंक एम्प्लॉयज एसोसिएशन प्रदर्श ७७५-7 एवं प्रतिलिपि ट्रांसफर सर्टिफिकेट प्रदर्श ७७५-8 प्रस्तुत किये गये। अप्रार्थी की ओर से साक्ष्य के समर्थन में भीमबंद तोमर का शपथ

पत्र पेश किया गया जिस पर प्रतिपरीक्षा करने का अवसर प्रार्थी के विद्वान प्रतिनिधि को दिया गया। प्रलेखीय साक्ष्य में प्रतिलिपि पत्र दिनांक 05-11-86 प्रदर्श एम-1, पत्र दिनांक 26-03-87 प्रदर्श एम-2, प्रतिलिपि प्राख्य आवेदन प्रदर्श एम-3, प्रतिलिपि प्रार्थना पत्र प्रार्थी एवं वाउचर प्रदर्श एम-4 से एम-21, प्रतिलिपि शपथ पत्र एम-22, प्रतिलिपि नोटिस एम-23 से एम-26, प्रतिलिपि सरकुलर एम-27 एवं प्रतिलिपि स्टेटमेंट ऑफ सेनेरीज एण्ड एला-उन्सेज प्रदर्श एम-28 प्रस्तुत किए गए। बहस सुनी गयी एवं पत्रावली का अवलोकन किया गया।

विवाद विन्दुओं का विनिश्चय इस प्रकार किया जाता है :—

विन्दु संख्या 1 :— अप्रार्थी के विद्वान अधिवक्ता द्वारा इस विन्दु पर कोई जोर नहीं दिया गया अतः इस विन्दु का विनिश्चय अप्रार्थी के विरुद्ध किया जाता है।

विन्दु संख्या 2 :— न्यायाधिकरण का श्रवण क्षेत्राधिकार निर्देश आदेश में उल्लिखित विवाद विन्दुओं तक ही सीमित है। निर्देश आदेश के अनुसार इस बाबत विचार करना है कि क्या प्रार्थी की सेवा समाप्ति दिनांक 21-1-79 एवं दिनांक 12-8-90 प्रार्थी को बिना नियोजन का अवसर दिये, जबकि उससे कनिष्ठ श्रमिक शंकरलाल को नियोजित किया गया, उचित है ? प्रार्थी के विद्वान प्रतिनिधि का तर्क है कि निर्देश आदेश के अनुसार विवाद अधिनियम, 1947 की धारा 25-जी का अप्रार्थी के द्वारा उल्लंघन किये जाने के बारे में है। उन्होंने स्वीकार किया है कि प्रार्थी के द्वारा स्टेट-मेंट आफ क्लेम में प्रार्थी की सेवा समाप्ति 21-1-79 के बारे में कोई विवाद नहीं उठाया गया है। अतः इस बाबत विचार करने की आवश्यकता नहीं है। मेरी राय में, निर्देश आदेश के अनुसार विवाद प्रार्थी को पुनः नियोजन का अवसर न दिये जाने के बारे में है व विवाद अधिनियम, 1947 की धारा 25-एच के उल्लंघन से संबंधित है। प्रार्थी की सेवा समाप्ति दिनांक 12-8-90 बतायी गयी है। अप्रार्थी के विद्वान अधिवक्ता ने तर्क दिया है कि प्रार्थी के द्वारा सेवा समाप्ति के बारे में विवाद देरी से उठाया गया है व इस कारण औद्योगिक विवाद अस्तित्व में होना नहीं कहा जा सकता। उन्होंने अपने तर्क के समर्थन में 2000(2) एस सी सी 455 नेदुगडी बैंक लि. बनाम के.पी. माधवनकुट्टी व अन्य को उद्धृत किया है। दूसरी ओर प्रार्थी के विद्वान प्रतिनिधि ने तर्क दिया है कि अधिनियम 1947 में विवाद उठाये जाने के बारे में कोई समय-सीमा निर्धारित नहीं है। देरी मात्र के आधार पर विवाद अस्तित्वहीन नहीं कहा जा सकता। उन्होंने अपने तर्क के समर्थन में 1999 (3) एलएलएन 872 महावीर सिंह बनाम उत्तर प्रदेश इलेक्ट्रिसिटी बोर्ड व अन्य को उद्धृत किया है। 2000 (2) एससीसी 455 के मामले में विवाद न्याय निर्णयन हेतु 7 वर्ष बाद इस आधार पर उठाया गया था कि दो अन्य कर्मचारी जो कर्मचारी की भांति समान परिस्थितियों में सेवा से मुक्त किये गये थे को पुनः नियुक्ति दे दी गयी थी। उक्त विवाद की बाबत

निर्देश आदेश देरी एवं औद्योगिक विवाद के अस्तित्व में न रहने के कारण धूँत पाया। 1999(3) एलएलएन 872 के मामले में विवाद दिनांक मार्च 83 में सेवा समाप्ति दिनांक 12-11-75 के बारे में उठाया गया था व देरी के आधार पर माननीय उच्चतम न्यायालय ने विवाद को अस्तित्वहीन नहीं माना। प्रस्तुत मामले में प्रार्थी की सेवा समाप्ति दिनांक 12-8-90 के बारे में प्रार्थी ने वर्ष 96 में ही विवाद उठाया था। इससे पूर्व अप्रार्थी को पुनः नियोजन दिये जाने के बारे में नोटिस दिया गया। उक्त परिस्थितियों में यह नहीं कहा जा सकता कि प्रार्थी द्वारा विवाद उक्त समय पश्चात् उठाने से अस्तित्व में न रहा हो।

प्रार्थी की सेवा समाप्ति 12-8-90 के पश्चात् शंकर लाल नियोजित किया गया हो, ऐसा नहीं बताया जाता। अप्रार्थी की ओर से शंकर लाल का नियुक्ति पत्र प्रवर्ष एन-2 प्रस्तुत किया गया जिसके अनुसार उसकी नियुक्ति दिनांक 26-3-87 को अधीनस्थ कर्मचारी वर्ग में पूर्णकालिक वेतन पर की गयी है। उक्त नियुक्ति उसे बैंक द्वारा जारी पत्र 23-4-87 जिसके अनुसार सभी भूतपूर्व अस्थायी व कार्यरत सभी कर्मचारियों को स्थायी सेवा में अंतर्लेयन हेतु एक अंतिम अवसर समाचार पत्रों में नोटिस प्रकाशित कर, आवेदन आमंत्रित कर एवं साक्षात्कार लेकर की गयी थी, जैसा कि, सरकुलर दिनांक 23-4-87 प्रदर्श एम-22, नोटिस प्रदर्श प्रतिलिपि एम-23 से एम-26, प्रतिलिपि आवेदन संकलन प्रदर्श एम-3, प्रतिलिपि पत्र बाबत साक्षात्कार प्रदर्श एम-1 व नियुक्ति पत्र प्रदर्श एम-2 से स्पष्ट है। अप्रार्थी के साक्षी भीमचन्द तोमर का कथन है कि प्रार्थी की ओर से नियमित नियुक्ति हेतु कोई आवेदन प्रस्तुत नहीं किया गया। प्रार्थी की ओर से कोई साक्ष्य प्रस्तुत नहीं की गयी जिसके द्वारा उसने नियुक्ति के लिए कोई आवेदन प्रस्तुत किया हो। प्रार्थी पुनः नियोजन का अवसर दिये जाने की मांग तभी कर सकता था जब कि बैंक द्वारा अस्थायी नियुक्ति की जाती। नियमित नियुक्ति हेतु प्रार्थी पुनः नियोजित किये जाने के आधार पर भाग नहीं कर सकता। इसके अतिरिक्त प्रार्थी ने स्टेटमेंट आफ फलेस में यह उल्लेख नहीं किया है कि 12-8-90 से पूर्व उसकी सेवा समाप्त की गयी। इस कारण भी अधिनियम, 1947 की धारा 25-एच के प्रावधान प्रार्थी के मामले में आकृष्ट नहीं होते।

प्रार्थी के विद्वान प्रतिनिधि के तर्क को यदि स्वीकार भी कर लिया जाये कि निर्देश आदेश अधिनियम, 1947 की धारा 25-जी का उल्लंघन किये जाने से संबंधित है तो भी प्रार्थी की ओर से यह प्रमाणित नहीं है कि अप्रार्थी के द्वारा वरिष्ठता का उल्लंघन किया गया है। पुनः शंकर लाल को नियुक्ति पत्र दिनांक 26-3-87 प्रदर्श एम-2 के अनुसार नियमित नियुक्ति दी गयी। प्रार्थी दिनांक 11-8-90 तक अप्रार्थी के अधीन कार्यरत था। शंकर लाल की नियमित नियुक्ति होने पर प्रार्थी अपनी तुलना शंकर लाल से नहीं कर सकता, क्योंकि प्रार्थी दैनिक मजदूरी पर कार्यरत था, जैसा कि प्रतिलिपि बाउचर प्रदर्श एम-4 से एम-21 द्वारा स्पष्ट है। प्रार्थी के विद्वान प्रतिनिधि ने 1996 (2) एलएलएन 1126

राजकोट म्युनिसिपल कॉरपोरेशन बनाम किशोर गोविंद को उद्धृत किया है, जिसमें गुजरात उच्च न्यायालय ने यह अभिनिर्धारित किया है कि अधिनियम, 1947 की धारा 25-जी एवं एच के अन्तर्गत लाभ प्राप्त करने हेतु यह आवश्यक नहीं है कि कर्मकार ने एक वर्ष या उससे अधिक निरंतर सेवा की है। इस सिद्धांत के बारे में कोई विवाद नहीं है।

उक्त विवेचन से अप्रार्थी द्वारा अधिनियम, 1947 की धारा 25-जी का उल्लंघन किया जाना प्रमाणित नहीं है। प्रार्थी के विद्वान प्रतिनिधि ने अधिनियम, 1957 के नियम 77, 78 का उल्लंघन किये जाने के बारे में जोर नहीं किया है। इस प्रकार, इस बिन्दु का विनिश्चय प्रार्थी के विरुद्ध किया जाता है।

बिन्दु संख्या 3:—प्रार्थी के द्वारा दिनांक 21-1-79 को उसकी सेवा समाप्त किये जाने के बारे में नहीं बताया गया। अतः इस बाबत विचार करने की आवश्यकता नहीं पायी गयी कि उक्त दिनांक को उसकी सेवा समाप्ति उचित है या अनुचित। उसकी सेवा समाप्ति दिनांक 12-8-90 अनुचित नहीं पायी गयी। अतः प्रार्थी कोई सहायता प्राप्त करने का अधिकारी नहीं है।

पंचाट की प्रतिलिपियां केन्द्र सरकार को अधिनियम, 1947 की धारा 17 की उपधारा (1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जाएं।

ह०/अपठनीय
पीठासीन अधिकारी

नई दिल्ली, 11 सितम्बर, 2001

का.आ. 2677:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ राजस्थान लिमिटेड के प्रबंधन के संबंध में निोजकों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-9-2001 को प्राप्त हुआ था।

[सं० एल-12012/107/97-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 11th September, 2001

S.O. 2677.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Rajasthan Ltd. and their workman, which was received by the Central Government on 10-9-2001.

[No. L-12012/107/97-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
JAIPUR

Case No. CGIT B-8/98

Reference No. L-12012/107/97-IR(B-I) Dt. 27-1-98

Bhanwar Singh S/o Shri Ram Singh,
Ex-Driver, resident of village Surajpura,
Via Beawar, District Ajmer through Shri
Mahendra Shah, Labour Adviser, A-19,
Mahesh Nagar, Jaipur. . . Applicant.

V/s.

1. Bank of Rajasthan through
its Managing Director.
2. General Manager,
Bank of Rajasthan Limited, C-3,
Sardar Patel Marg, C-Scheme,
Jaipur. Non-applicant.

ATTENDANCE :

For the applicant : Shri Arvind Soni, Advocate.

For the non-applicant : Shri Alok Fatchpuria,
Advocate.

Date of Award : 18-7-2001

AWARD

The Central Government vide order mentioned above has referred the following dispute under clause (d) of Sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred as Act, 1947) for adjudication :

"Whether the action of the management of the Bank of Rajasthan Ltd., Jaipur is justified in terminating the services of Shri Bhanwar Singh, Driver w.e.f. 13-2-95. If not, to what relief the workman is entitled to?"

The applicant filed the statement of claim stating that he was appointed in the establishment of the non-applicant Bank (hereinafter referred as the Bank) on the post of driver on consolidated basis w.e.f. 3-12-93 in temporary capacity. The applicant was given appointment after inviting the application from him and judging the suitability by the General Manager. He was ordered to paid Rs. 1300 p.m. initially and was directed to work under control of Assistant General Manager. His monthly emoluments were increased to Rs. 1500 p.m. in the year 1994. He was assured for regularisation of his services. He made a request that his attendance may be recorded along with other staff of the bank which annoyed non-applicant No. 1 who terminated his services on 12-12-95. His services were terminated in violation of 25-F and 25-H of Act, 1947 and Rule 77 of the Industrial Dispute Rules, 1957 (hereinafter referred as the Rules, 1957). The non-applicant had adopted unfair labour practice while terminating his services. He is out of employment since the date of termination. It was prayed that his retrenchment may be declared illegal and he may be reinstated with all consequential benefit. In the reply on behalf of non-applicant it

was denied that the applicant was the employee of the non-applicant bank. It was stated that there was no relationship in between applicant and non-applicant as employer and employee. It was also stated that the dispute does not fall under Section 2(k) of the Act, 1947. It was stated that the applicant was the personal driver of the then General Manager of the bank Shri K. M. Rohatgi. The applicant had worked under the control, supervision and direction of Shri K. M. Rohatgi and had never worked under the direction and control of the Bank. It was stated that the salary of the applicant was paid by K. M. Rohatgi and whatever amount was paid to the applicant in respect of vehicle No. R.J 14 C 9883 had been paid to him on behalf of K. M. Rohatgi. It was further stated that the non-applicant bank is a public sector undertaking and there is procedure prescribed for appointment on permanent basis. For giving appointment advertisement is issued and after interview by selection committee appointment is given. The applicant was not given appointment by the bank as per the above procedure. It was denied that the applicant was given any assurance for regularisation. It was stated that if any cheque had been given by the bank in the name of applicant the same is in respect of amenity provided by the bank to the General Manager Mr. Rohatgi. As per the direction of Mr. Rohatgi the amount was paid to the applicant on his behalf. The vehicle, which was belonging to the bank, was allotted to the General Manager for his convenience and the bills in respect of maintenance of the vehicle were to be paid by the bank. Whenever the vehicle was got repaired by the applicant as per the direction of Mr. Rohatgi, the bill was submitted by him. It was denied that the applicant's services were terminated by the non-applicant. It was stated that the bank allots the vehicles to its officers but the driver is not made available. In case the officer wants he may engage a driver and the bank makes reimbursement in respect of the same to some extent at the fixed rate.

The applicant in the rejoinder stated that he was employee of the bank and he worked under the control of its authorities. Had he been the employee of Mr. Rohatgi then there was no question to make payment under different heads to him through vouchers. The attendance register discharging his duties on different vehicles primarily goes to show that he was not the personal employee of Mr. Rohatgi. It was denied that the salary was paid to him by Shri Rohatgi.

On the basis of the pleadings of the parties the following points of disputes were framed :—

विवाद बिन्दु :

- (1) आया प्रार्थी ने विपक्षी संस्थान में दिनांक 3-12-93 से 11-12-95 तक निरंतर कार्य किया ?
- (2) आया विपक्षी संस्थान द्वारा औद्योगिक विवाद अधिनियम की धारा 25 एफ एवं औद्योगिक विवाद (केन्द्रीय) नियम 1957 के नियम 77 का उल्लंघन किया गया ?

- (3) आया विपक्षी संस्थान द्वारा प्रार्थी की सेवा समाप्ति अनपेक्षित लेबर प्रैक्टिस के तहत आती है ?
- (4) आया प्रार्थी भंवर सिंह विपक्षी संस्थान का कर्मचारी न होकर तत्कालीन महाप्रबंधक के. एम. रोहतगी का निजी ड्राइवर था ? यदि हां तो इसका प्रभाव ?
- (5) आया प्रार्थी द्वारा उठाया गया विवाद औद्योगिक विवाद की श्रेणी में नहीं आता ?
- (6) आया प्रार्थी सेवा समाप्ति के बाव से बेरोजगार है ?
- (7) प्रार्थी किस सहायता को प्राप्त करने का अधिकारी है ?

The applicant in support of his claim filed his own affidavit. The learned counsel for the non-applicant was given opportunity to cross-examine him on his affidavit. The applicant also filed copies of documents marked Ex. W-1 to Ex. W-147, which will be referred at the appropriate place. On behalf of the non-applicant affidavit of K. M. Rohatgi Ex-General Manager of the bank was filed. The learned counsel for the applicant was given opportunity to cross-examine him on his affidavit. In the form of documentary evidence copies of documents marked M-1 to M-18 were filed.

Heard arguments of the learned counsels of the parties and per used the record. The points are decided as follows :

Point Nos. 1, 3, 4 and 5 :—There is no appointment letter in favour of the applicant on the post of driver. Though the applicant came with the case that he was given appointment after inviting application from him, in his statement he has admitted that he did not submit application for appointment nor any letter for interview was issued to him.

The applicant in his statement stated that he was given appointment in the establishment of non-applicant No. 1. Initially he was given Rs. 1300 p.m. as salary. Later on in 1994 the salary was increased to Rs. 1500 p.m. He has submitted copy of the documents Ex. W-1 to W-141, W-146 and W-147 for having worked in the establishment of the non-applicant. He has stated that he had worked from 3-12-93 to 12-2-95 and worked for more than 240 days in the year preceding to the date termination i.e. 12th December, 1995. On the other hand K. M. Rohatgi, the then General Manager of the bank has stated that the applicant had worked as his personal driver in the bank. When he was as Deputy General Manager he was given some amount for engaging a personal driver. It was for him as to how and during which time the work was to be taken from him. He was to submit a letter on the basis of which the bank used to make payment. Such kinds of letters are M-1 to M-17, which bear his signatures. The applicant worked under his supervision, control and direction. No other officer could take work from him. The applicant never worked under control and direction of the bank. The appli-

cant. was paid his salary by him. The payment regarding maintenance of the vehicle was made to him which was received by applicant on his behalf. The applicant was never appointed in service of the bank, nor his attendance was marked in the attendance register. There was no relationship between the applicant and bank as employee and employer. In cross-examination he has admitted signatures of the applicant on documents marked W-1 to W-3. He has also admitted that the documents marked W-8 to W-32, 34 to 39, 41 to 48, 50 to 54, 56 to 63, 65 to 146, are related to vehicle No. R.J.14 C 9883 which were given by him to the bank for reimbursement. He has also admitted that the cheques Ex. W-40 and 64 were given to the applicant for meals. He has also admitted that documents marked W-49 and W-147 bear signatures of the applicant. He has stated that payment of salary for the period from December, 1993 to March, 1995 was paid by him to the applicant as shown in documents M-19 to 21 which was reimbursed by the bank to him.

The learned counsel for the applicant has contended that various vouchers produced by the applicant show that the applicant was really in the service of the bank and did not work as personal driver of the General Manager of the Bank. On the other hand the learned counsel for the non-applicant has contended that the applicant worked as personal driver of Mr. K. M. Rohatgi and worked under his control, direction and supervision. He has thus contended that there was no relationship of employer and employee in between bank and the applicant. In support of his argument he has relied upon (1978) 2 SCC 358 Punjab National Bank V/s. Ghulam Dastagir.

In the case cited above it was held by the apex court that in order to decide that who is the employer the crucial test in most cases is as to who exercises control and supervision over the workman. It was further observed "Lord Porter in the course of his speech in the judgement in Mersey Docks and Harbour Board v. Goggins and Griffith Liverpool Ltd., expressed himself in words which were relied upon by Shri Justice Sinha in Shivanandan Sharma :

Many factors have a bearing on the result. Who is paymaster, who can dismiss, how long the alternative service lasts, what machinery is employed, have all to be kept in mind. The expressions used in any individual case must always be considered in regard to the subject-matter under discussion but amongst the many tests suggested, I think that the most satisfactory, by which to ascertain who is the employer at any particular time, is to ask who is entitled to tell the employee the way in which he to do the work upon which he is engaged.

It is clear that the direction and control are the telling factors to decide as to whether the driver in the present case is the employee of the Bank. This test does not exclude other factors also, and indeed as Lord Macmillan, in the aforesaid case, rightly stressed the question in each case turns on its own circumstances and decisions in other cases are rather illustrative than determinative."

Thus as per the law laid down by the apex court control and supervision are the crucial tests to arrive

at the conclusion as to who is the employer. But they are not the only tests, other relevant circumstances may also be looked into. The non-applicant in the reply has stated that the bank gives the facility of vehicle to its officers. If some officer wants to engage a driver, the bank may reimburse some amount at fixed rate. It is not necessary for the bank to reimburse full amount paid by the officer to the driver. It was also stated whenever cheque was issued in the name of the applicant the same was part of the aminity provided to the General Manager. It may be stated that the non-applicant had not produced the Bank Rules or any order or any circular regarding the terms and conditions under which the officer or General Manager of the Bank are permitted to engage the personal driver. So far as documents marked W-1 to W2, W4 to 6, 7, 8, 11, W-15 to 22, 26, 29, 32, 37, W41 to 43, 46, 48, W52 to 55, 56, 56(A), 63, 67, 69, W71 to 75, 77, 80, 83, 85, 87, 89, 91, 92, 94, 95, 97, 98, 100, 104, 105, 108, 110, 112, 113, 115, 116, 119, W121 to 124, 130 to 133, 136, W138 to 141 and 146 are concerned they relate to the maintenance of the vehicle and on the basis of these documents which bear the signatures of the applicant, it cannot be held that there was direct relationship between him and the bank as an employer and employee as the maintenance might have been carried out at the direction of the General Manager Mr. K. M. Rohatgi but there are other documents which show the direct nexus between him and the bank. Debit voucher of the bank marked W7 is in respect of the duty of chairman on Sunday and regarding conveyance for going late. Similar is the debit voucher marked W9. Debit voucher W10 relates conveyance charges claimed by the applicant for coming from Malviya Nagar to Sarojini Marg. Debit voucher W12 is in the respect of expenses incurred by the applicant. The applicant has claimed taxi fare vide debit voucher W13. Vide debit voucher W14 he has claimed expenses. Vide debit voucher W23 the applicant has claimed the taxi fare for having become late on account of the work of the bank. Debit voucher W24 is in respect of expenses by the applicant. Vide debit voucher W25 the applicant has claimed expenses for giving duty in the bank on Sunday. Vide debit voucher W27, 28, 31, 34, 35, 38, 39, 44, 45, 47, 57, 61, 62, 66, 88, 93, 96, 102, 103, 106, 107, 112, 117, 118, 126, 134, 137, the applicant has claimed conveyance charges from the bank. Vide debit vouchers W36 the applicant has claimed expenses for having worked as peon. Vide debit voucher W56 the applicant has claimed expenses for food. The debit voucher W61 mentions that the applicant did duty with the director. In the debit voucher W62 it has been mentioned that the applicant went to the airport for leaving the director there. The applicant has claimed expenses for food for being on duty with the director vide voucher W66. Vide debit voucher W70 the applicant has claimed the amount for being on duty with the chairman for the bank. Vide debit voucher W76 the applicant has claimed expenses for food for having gone to choki-dhani for bank's work. Vide debit voucher W78 the applicant has claimed expenses from the bank incurred by him at Delhi. Vide debit voucher W79 the applicant has claimed expenses for going to Sanganer for bank's work. Vide debit voucher W84, 90, 111, 114 the applicant has claimed the amount for meals

from the bank. The applicant has claimed the amount vide debit voucher W120 for being on duty in the bank. The applicant has claimed the amount vide debit voucher W126 for performing duty in the bank as peon. The applicant has claimed amount vide debit voucher W127 for duty in the bank on holiday. The applicant has claimed amount vide debit voucher W129 for bringing parshad for 'Lord Ganeshji' in the bank. The applicant has claimed expenses for food vide debit voucher 135. Thus as per the above vouchers which have not been disputed by the non-applicant the applicant has claimed the amount under the heads of food, conveyance, duty with the Director and Chairman of the bank. Had the applicant been the personal driver of the General Manager of the Bank Mr. K. M. Rohatgi he could not have claimed the amount under the above heads from the bank. Mr. K. M. Rohatgi in his statement has stated that no other officer could take work from the applicant. If it was so, then how the applicant gave duty with the director and chairman of the bank? The learned counsel for the non-applicant has laid great emphasis on the fact that salary was paid by Mr. K. M. Rohatgi to the applicant which was reimbursed by the bank to him as per the documents marked M1 to M17 and W147 in which it has been mentioned that the applicant was the personal driver of Mr. K. M. Rohatgi. This appears to be the device adopted by the bank so that the provisions of the Act may not be applicable in case of the applicant. The whole of the salary was paid to the applicant not directly by the bank but through the General Manager Mr. K. M. Rohatgi. Thus in reality the paymaster was the bank and not Mr. K. M. Rohatgi. The applicant was not given the salary but other perks also from the bank such as conveyance charges and expenses for means. The applicant rendered services not only to the General Manager of the bank but also to its director and chairman. All these facts go to show that the bank has resorted to colourable device by making the payment of salary to the applicant through the General Manager and thereby claiming the applicant as personal driver of the General Manager Mr. K. M. Rohatgi. The applicant in fact has rendered service in the establishment of the non-applicant through its General Manager, Director and Chairman and was therefore, employee of the bank. It is thus proved that the applicant had worked in the establishment of the bank from 3-12-93 to 11-12-95. The applicant was not the personal driver of Mr. K. M. Rohatgi. The non-applicant has adopted unfair labour practice while retrenching the applicant from service by claiming the applicant to be the personal driver of Mr. K. M. Rohatgi and the dispute raised by the applicant regarding retrenchment of his service falls in the category of industrial dispute.

Point No. 2:—It is proved that the applicant has worked 3-12-93 to 11-12-95 in the establishment of the non-applicant and had worked also for more than 240 days in the year preceding to the date of termination. It is not disputed that no notice or pay in lieu notice or retrenchment compensation was paid to the applicant while retrenching him as required under Section 25-F of the Act, 1947 and

no seniority list was prepared and published as required under Rule 77 of the Rules, 1957 while retrenching him. The services of applicant, therefore, were terminated by violating of Rule 77 of Rules, 1957 also.

Point No. 6 :—The applicant has admitted that he has done the work of driver after termination of his services. He has also admitted that he is working in agriculture thereafter. It cannot therefore be said that the applicant is unemployed since the termination of his service.

Point No. 7 :—On account of violation of Section 25-F of the Act, 1947 and Rule 77 of Rules, 1957, the termination of the service of the applicant is held to be illegal and unjustified. He will be entitled to reinstatement in service. In view of the facts and circumstances of the case and on the basis of no work no pay the benefit of back wages and continuity in service is not given to applicant. The non-applicant is directed to reinstate, the applicant on the post of driver within a period of three months from the date of the award.

The copies of the award may be sent to the Central Government for publication under Section 17(1) of the Act, 1947.

Sd./- Illegible,
Presiding Officer

नई दिल्ली, 11 सितम्बर, 2001

का.आ. 2678:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ़ बीकानेर एण्ड जयपुर के प्रबंधक के संबंध निरीक्षणों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-9-2001 को प्राप्त हुआ था।

[सं० एल-12012/136/96-आई.आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 11th September, 2001

S.O. 2678.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of Bilaner & Jaipur and their workman, which was received by the Central Government on 10-9-2001.

[No. L-12012/136/96-IR(B-I)]

AJAY KUMAR, Desk Officer

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर।
आदेश 12012/13696/आई.आर. (बी) दिनांक 25-3-97 एवं
आदेश एल 12012/136/96-आई.आर. (बी 1) दिनांक
5-8-98

प्रकरण संख्या :—सी.जी.आई./बी-2/97

सांवरमल शर्मा पुत्र श्री रामसहाय शर्मा द्वारा श्री ऋषभ चंद जैन, 80 बजरंग विहार, गोपालपुरा रेलवे फाटक के पास, टोंक रोड, जयपुर।

—प्रार्थी

बन/म

1. प्रबन्ध निदेशक,
स्टेट बैंक ऑफ़ बीकानेर एण्ड जयपुर
तिलक मार्ग, सी-स्कीम, जयपुर।
2. शाखा प्रबन्धक,
स्टेट बैंक ऑफ़ बीकानेर एण्ड जयपुर,
निवाड़ी जिला टोंक (राजस्थान)

—अप्रार्थीगण

उपस्थित :—

प्रार्थी की ओर से	श्री ऋषभ चंद जैन
अप्रार्थी की ओर से	श्री अनुराग अप्रवाल
पंचाट दिनांक	25-7-2001

पंचाट

केन्द्रीय सरकार के द्वारा उक्त आदेश के जरिए निम्न विवाद औद्योगिक विवाद अधिनियम, 1947 (जिसे बाद में अधिनियम, 1947 कहा गया है।) की धारा 10 की उप-धारा (1) के खण्ड-ब के प्रावधानों के अन्तर्गत न्यायनिर्णयन हेतु निर्देशित किया गया :—

“क्या श्री सांवरमल शर्मा पुत्र श्री राम सहाय शर्मा मु.पो. चैतपुरा, तहसील निवाड़ी, जिला टोंक प्रतिनिधित्व श्री ऋषभ चंद जैन, प्रतिनिधि भारतीय मजदूर संघ का यह कथन कि वह प्रबंधक स्टेट बैंक ऑफ़ बीकानेर एण्ड जयपुर शाखा निवाड़ी में वैदिक वेतन भोगी चतुर्थ श्रेणी कर्मचारी के रूप में दिनांक 8-6-94 से नियुक्त होकर 31-7-95 तक निरन्तर कार्य किया है, तथा उसे 1-8-95 से सेवामुक्त कर दिया गया है, सही है? यदि हां तो श्री सांवरमल शर्मा, प्रबंधक स्टेट बैंक ऑफ़ बीकानेर एण्ड जयपुर तिलक मार्ग, सी-स्कीम जयपुर एवं उसकी शाखा निवाड़ी से किस अनुतोष का अधिकारी है?”

प्रार्थी की ओर से स्टेटमेंट ऑफ़ केस प्रस्तुत किया गया, जिसमें उल्लेख किया गया कि उसे अप्रार्थी संख्या-2 के अधीन दिनांक 8-6-94 को सब स्टाफ़ के रूप में दैनिक वेतन पर नियुक्ति दी गई थी। उसने विपक्षी संस्थान में दिनांक 31-7-95 तक निरन्तर कार्य किया। उसने क्लीयरिंग के चेक व रिटर्न चेक तथा स्टेट बैंक ऑफ़ इण्डिया से चेक बुक लाने-ले जाने, पार्टीज को इन्टीमेशन व बैलेन्सशीट देने व कार्यालय का समस्त कार्य लिया जाता था। दिनांक 1-8-95 को उसे अकारण ही अप्रार्थी ने सेवामुक्त कर दिया। वह जो कार्य करता था स्याही प्रकृति का था व सेवामुक्ति करते समय भी यथावत था। उसने अप्रार्थी संख्या-2 के द्वारा समय पर भुगतान न करने तथा दूसरों के नामों से वेतन भुगतान करके उसे नियमितकरण के लाभ से वंचित किए जाने का विरोध किया, जिस कारण उसे सेवामुक्त किया गया। उसकी सेवामुक्ति किए जाने से पूर्व न तो उसे कोई नोटिस दिया गया व नोटिस वेतन। उसके कनिष्ठ

अभिक विपक्षी संस्थान में कार्यरत थे तथा उसे सेवामुक्त किए जाने के पश्चात् नए अभिकों की भर्ती की गई। इस प्रकार अप्रार्थी के द्वारा अधिनियम, 1947 की धारा 25-एफ, जी, एवं एच एवं राजस्थान औद्योगिक विवाद नियम, 1958 के नियम 77, 78 का उल्लंघन कर की गई। प्रार्थना की गई कि उसकी सेवामुक्ति दिनांक 1-8-95 को अवैध एवं अनुचित घोषित किया जाए। उसकी सेवा निरन्तर मानते हुए उसे पुनः सेवा में लवा जाए एवं समस्त आर्थिक लाभ एवं अन्य लाभ दिलाने का आदेश दिया जाए।

अप्रार्थी ने जवाब प्रस्तुत किया, जिसमें प्रार्थी को दिनांक 8-6-94 को सबस्टाफ के रूप में नियुक्ति दिया जाने से इंकार किया गया। यह उल्लेख किया गया कि स्टेट बैंक आफ बीकानेर एण्ड जयपुर (जिसे बाद में बैंक कहा गया है) की शाखा निवाई में दिनांक 1-7-94 को खोली गई थी, जिसमें प्रार्थी चाय की स्टाल बैंक की उक्त शाखा के पास चला रहा था, अप्रार्थी ने उसे शाखा के उद्घाटन के समय बहुत-सी वस्तुओं की आपूर्ति करने का कार्य सौंपा, जिसका उसकी लिखित मांग करने पर भुगतान किया गया। चूंकि प्रार्थी शाखा के स्टाफ से परिचित हो गया था इस कारण उसे सामान्य उपयोग की अन्य वस्तुओं की आपूर्ति शाखा कार्यालय में करने के लिये कहा गया व इसके अतिरिक्त अन्य कार्य भी सौंपे गये, जिससे कि उसकी आय में बढ़ोतरी हो सके। प्रार्थी को कोई नियुक्ति नहीं दी गई व न कोई उसकी सेवामुक्ति की गई। सभी भुगतान प्रार्थी के नाम से किये गये प्रार्थी को कोई मजदूरी देय नहीं थी, अतः किसी दूसरे व्यक्ति के नाम से उसे भुगतान किया जाने का प्रश्न ही उत्पन्न नहीं होता। चूंकि प्रार्थी बैंक के नियोजन में नहीं था, अतः अधिनियम, 1947 के प्रावधान प्रार्थी के मामले में लागू नहीं होते।

पक्षकारों के अभिकथनों के आधार पर निम्नांकित विवाद बिन्दुओं की रचना की गई:—

1. आया प्रार्थी ने अप्रार्थी क्रमांक-2 के अधीन दिनांक 8/6/94 से दिनांक 31/7/95 तक दैनिक वेतन पर निरन्तर कार्य किया व दिनांक 1/8/95 को उसे सेवामुक्त कर दिया गया?
2. आया अप्रार्थीगण के द्वारा औद्योगिक विवाद अधिनियम, 1947 की धारा 25(एफ), 25 (जी), एवं 25(एच) का उल्लंघन किया गया है?
3. अनुतोष ?

प्रार्थी की ओर से क्लेम के समर्थन में स्वयं का शपथ-पत्र प्रस्तुत किया गया, जिस पर प्रतिपरीक्षा करने का अवसर अप्रार्थी के विद्वान अधिवक्ता को दिया गया। प्रलेखीय साक्ष्य में प्रतिलिपि पेटी कौश रजिस्टर प्रदर्श डब्ल्यू-1 से डब्ल्यू-15; प्रतिलिपि आवेदन कन्वेन्स चार्ज के

पुनर्भरण का प्रदर्श डब्ल्यू-16, प्रतिलिपि बैंक बुकरजिस्टर प्रदर्श डब्ल्यू-17 एवं प्रतिलिपि असफल वार्ता प्रतिवेदन प्रदर्श डब्ल्यू-18 प्रस्तुत किये। अप्रार्थी की ओर से राकेश शर्मा, उपप्रबन्धक का शपथ-पत्र प्रस्तुत किया गया, जिस पर प्रतिपरीक्षा करने का अवसर प्रार्थी के विद्वान प्रतिनिधि को दिया गया। प्रलेखीय साक्ष्य में अप्रार्थी की ओर से प्रतिलिपि डेविट वाउचर प्रदर्श एम-1 से एम-10, प्रतिलिपि उगाही अनुसूची प्रदर्श एम-11 से एम-13, प्रतिलिपि वाउचर्स प्रदर्श एम-14 से एम-34 प्रस्तुत किये गये। इसके अतिरिक्त प्रार्थी के आवेदन पर अरावली क्षेत्रीय ग्रामीण बैंक शाखा, निवाई, सेंट्रल बैंक लिमिटेड शाखा, निवाई एवं बैंक आफ बड़ौदा शाखा, निवाई द्वारा भेजी गई स्थानीय उगाही अनुसूची तलब की गई एवं भारतीय स्टेट बैंक का बैंक बुक ईप्रू रजिस्टर तलब किया गया, जिनकी प्रतिलिपि अभिलेख पर है।

बहुस सुनी गई एवं पत्रावली का अवलोकन किया गया।

बनाये गये विवाद बिन्दुओं का विशिष्ट निम्न प्रकार किया जाता है:—

बिन्दु संख्या:—1 प्रार्थी का कथन है कि उसकी नियुक्ति बैंक की निवाई शाखा में दैनिक वेतन पर दिनांक 8/6/94 को चपरासी के रूप में हुई थी। उसने उक्त शाखा में दिनांक 31-7-95 तक निरन्तर कार्य किया। उसे वेतन का भुगतान वाउचर के जरिये किया जाता था। कई बार वेतन अत्यधिक देरी से दिया जाता था व कई बार दूसरे के नाम वेतन का भुगतान उसे माह के अन्त में होता था। वह नहीं बता सकता कि उसके नाम से कितना व दूसरों के नाम से कितने दिन का भुगतान किया गया। अप्रार्थी के साक्षी राकेश कुमार शर्मा का कथन है कि प्रार्थी को विपक्षी बैंक में नियुक्ति नहीं दी गई। उसका यह भी कथन है कि 50/- रुपये के नीचे के वाउचर पेटी कौश बुक में दर्ज होते हैं व 50/- रुपये से अधिक के वाउचर चार्ज रजिस्टर में दर्ज होने के बाद क्लीन हाथ बुक में दर्ज होते हैं। उसका यह भी कथन है कि चार्ज रजिस्टर तलब नहीं किया गया है, इसलिये पेश नहीं किया गया। प्रार्थी ने स्वीकार किया है कि उसे लिखित में नियुक्ति नहीं दी गई। यदि प्रार्थी को दैनिक वेतन पर नियुक्ति दी गई होती तो उसे दैनिक मजदूरी के आधार पर भुगतान किया गया होता। प्रार्थी के द्वारा यह प्रमाणित करने हेतु कि वह बैंक में नियोजित रहा प्रतिलिपि स्थानीय उगाही अनुसूची प्रदर्श डब्ल्यू-15, प्रतिलिपि आवेदन कन्वेन्स चार्ज के पुनर्भरण हेतु प्रदर्श डब्ल्यू-16, प्रतिलिपि पेटी कौश बुक प्रस्तुत की गई। उसके द्वारा आवेदन प्रस्तुत किये जाने पर प्रतिलिपि पेटी कौश रजिस्टर प्रदर्श डब्ल्यू-1 से डब्ल्यू-14, प्रतिलिपि उगाही अनुसूची अरावली क्षेत्रीय ग्रामीण बैंक व सेंट्रल कोपरेटिव बैंक व बैंक आफ बड़ौदा शाखा, निवाई व स्टेट बैंक आफ हाण्डगा शाखा, निवाई से बैंक बुक रजिस्टर

तलब किया गया। प्रार्थी के द्वारा वाउचर अथवा चार्ज रजिस्टर की कोई प्रतिलिपि प्रस्तुत नहीं की गई, जिससे यह प्रमाणित हो पाता कि उसे दिनांक 8-6-94 से 31-7-95 की अवधि में दैनिक मजदूरी के आधार पर कोई भुगतान किया गया। प्रार्थी की ओर से कोई आवेदन भी प्रस्तुत नहीं किया गया कि चार्ज रजिस्टर, जिसमें 50/- रुपये से अधिक का भुगतान होता है, को बैंक से तलब किया जाये। इस प्रकार यह प्रमाणित नहीं है कि प्रार्थी की नियुक्ति दिनांक 8-6-94 से 31-7-95 की अवधि में दैनिक मजदूरी के आधार पर की गई व उसे दैनिक मजदूरी के आधार पर कोई भुगतान किया गया।

प्रार्थी का कथन है कि वह बैंक परिसर के पास चाय की दुकान नहीं करना था। जब कभी शाखा प्रबन्धक या शाखा के स्टाफ द्वारा चाय आदि सामान मंगवाया जाता तो वह सामान लेकर आता। कई बार ऐसे सामान का वाउचर उससे बनवा लिया जाता था। उसका यह भी कथन है कि पैटी कैश रजिस्टर में प्रदर्श उल्लेख-1 से उल्लेख-14 में "ए से बी" हस्ताक्षर भुगतान प्राप्त के बारे में है, वे उसके हैं। उक्त राशि उसे सामान लाने के कन्वेन्स लेने के लिये भुगतान की गई। उसका यह भी कथन है कि पैटी कैश बुक में जिनने भी व्यक्तियों को भुगतान क्या गया है वे सभी बैंक में कार्यरत कर्मचारी थे। किसी भी ऐसे व्यक्ति के पैटी कैश बुक में हस्ताक्षर नहीं है, जो बैंक में कार्यरत कर्मचारी न हो, उसने स्वीकार किया है कि डेबिट वाउचर प्रदर्श एम-1 से एम-10 उसके द्वारा हस्तलिखित व हस्ताक्षरित है। उसका कथन है कि बैंक वालों ने उक्त आवेदन लिखाये थे। अप्रार्थी के साक्षी राकेश कुमार का कथन है कि प्रार्थी शाखा निवादी के नजदीक चाय, नाश्ता की दुकान चलाता है। समय-समय पर उससे चाय, नाश्ता, पानी व अन्य सामान मंगवाया गया, जिसका भुगतान जरिये वाउचर प्रदर्श एम-1 से एम-10 के द्वारा किया गया। प्रार्थी चाय की दुकान के साथ कोरियर, हथौड़ा भी कार्य करता था। उससे बैंक कोरियर की डाक भी भिजवाई गई, जिसका भुगतान उसे वाउचर के द्वारा किया गया। प्रार्थी ने पैटी कैश बुक में कई स्थानों पर अनाधिकृत रूप से हस्ताक्षर कर दिए हैं, जबकि सही रूप से उसका भुगतान प्रार्थी को नहीं किया गया है, जिनको भुगतान किया गया उनका वाउचर प्रदर्श एम-14 से एम-34 प्रस्तुत किए जा चुके हैं। उसका यह भी कथन है कि सन् 1994 में लोकल अधोरीटी के द्वारा चाय की दुकान चलाने के बायत चालान भी किया गया था, जिस पर प्रार्थी ने उसके समक्ष हस्ताक्षर किए थे चालान की प्रति उपलब्ध नहीं हो पाई। डेबिट वाउचर प्रदर्श एम-1 दिनांक 1-7-94 के द्वारा प्रार्थी के जरिए मटका मंगाए जाने के बारे में, वाउचर प्रदर्श एम-2 दिनांक 1-7-94 बैंक के उद्घाटन समारोह पर शाखा की टंकियों में पानी भरए जाने के बारे में, वाउचर प्रदर्श एम-3 दिनांक 6-7-94 के द्वारा मनोज रेस्टोरेन्ट से लिमका मंगाए जाने

के बारे में, वाउचर प्रदर्श एम-4 दिनांक 8-7-94 के द्वारा 270 चायों के बारे में, वाउचर प्रदर्श एम-5 दिनांक 5-8-94 के द्वारा मिठाई, नमकीन आदि के बारे में, वाउचर प्रदर्श एम-6 दिनांक 12-8-94 के द्वारा बिस्कुट आदि के बारे में प्रार्थी को भुगतान किया गया है। प्रार्थी के आवेदन दिनांक 25-3-95 के उल्लेख किया गया है कि उसने बैंक में अपनी दुकान से दिनांक 1-3-95 से 25-3-95 तक 265 चाय सप्लाई की, जिसके 265/- रुपये का भुगतान वाउचर प्रदर्श एम-7 के अनुसार किया। प्रार्थी के आवेदन दिनांक 1-5-95 प्रदर्श-8 में उल्लेख है कि उसने दिनांक 1-4-95 से 30-4-95 के बीच 143 चाय सप्लाई की, जिसका भुगतान किया जाए जिस पर भुगतान किए जाने का आदेश दिया गया व भुगतान किया गया। प्रार्थी के आवेदन प्रदर्श एम-9 में उल्लेख है कि उसने अपनी दुकान से चाय सप्लाई की, जिसके 100/- रुपये दिलाए जाएं जिस पर वाउचर के जरिए उसे उक्त भुगतान किया गया। प्रार्थी के आवेदन प्रदर्श एम-10 में उल्लेख है कि उसने बैंक में 1-6-95 से 30-6-95 के बीच 125 चाय सप्लाई की, जिसके 125/- रुपये दिनाये जाएं, जिस पर 100/- रुपये का भुगतान प्रार्थी को किया गया। डेबिट वाउचर प्रदर्श एम-3, 4, 5, 6 के नीचे जो चाय आदि का विवरण प्रस्तुत किया गया है, उसमें ऐसा उल्लेख नहीं है कि प्रार्थी ने अपनी दुकान से उक्त वस्तुओं की सप्लाई की। अतः यह नहीं कहा जा सकता कि अप्रार्थी के कहे अनुसार उसने आवेदन प्रदर्श एम-7, एम-9, एम-10 में ऐसा उल्लेख कर दिया कि उसने अपनी दुकान से चाय सप्लाई की। अतः प्रार्थी का यह कथन कि वह चाय आदि की दुकान नहीं चलाता था, विश्वास किए जाने योग्य नहीं है। प्रार्थी का यह कथन भी कि पैटी कैश रजिस्टर में ऐसे किसी व्यक्ति के हस्ताक्षर नहीं हैं, जो कि बैंक में कार्यरत कर्मचारी न हो, विश्वास किए जाने योग्य नहीं है, जबकि अप्रार्थी के साक्षी राकेश कुमार शर्मा का कथन है कि पैटी कैश बुक के पृष्ठ संख्या-1 व 3 पर राजेन्द्र, मूलचंद ऐसे व्यक्ति हैं जो बैंक में कार्यरत कर्मचारी नहीं हैं। पैटी कैश बुक में की गई प्रविष्टियों का मिलान डेबिट वाउचर से किया गया तो पाया कि पैटी कैश बुक प्रदर्श उल्लेख-1 में "ए से बी" हस्ताक्षर प्रार्थी के द्वारा तीन स्थानों पर किए गए हैं। यह उल्लेख करना उचित होगा कि पैटी कैश बुक प्रदर्श उल्लेख-1 में प्रार्थी के नाम की दो प्रविष्टि दिनांक 23-7-94 से संबंधित है। इसके ऊपर की प्रविष्टि दिनांक 19-7-94 की है व नीचे की 20-7-94 की। अन्य प्रविष्टियां पैटी कैश बुक में तारीखों के अनुसार की गई हैं। प्रार्थी से संबंधित उक्त प्रविष्टियां इस प्रकार कैसे की गई हैं, यह विचार किए जाने का विषय है। दिनांक 20-7-94 को एक प्रविष्टि वाउचर संख्या-8 के बारे में प्रार्थी के द्वारा कन्वेन्स चार्ज 20/- रुपये प्राप्त करने के बाबत है। वाउचर संख्या-8 प्रदर्श एम-16 से लक्ष्मीनारायण के द्वारा कन्वेन्स चार्ज के रूप में 20/- रुपये का क्लेम किया गया है। इससे ऐसा प्रकट होता है कि प्रार्थी ने लक्ष्मीनारायण के हस्ताक्षर पर ओवरराईटिंग कर कन्वेन्स चार्ज की प्रविष्टि पर अपने

हस्ताक्षर कर दिए। पैटी कैश रजिस्टर प्रदर्श डब्ल्यू-2 में प्रार्थी के द्वारा दिनांक 13-8-94 को 20 रुपये वाउचर संख्या-9 के आधार पर कन्वेन्स चार्ज के रूप में 20 रुपये प्राप्त किए जाने बाबत हस्ताक्षर किए गए हैं, जबकि वाउचर संख्या-9 प्रदर्श एम-18 लक्ष्मीनारायण के द्वारा कन्वेन्स चार्ज क्लेम किये जाने के बारे में है। इस प्रकार जो भुगतान लक्ष्मीनारायण को किया जाना था उस पर प्रार्थी ने भुगतान प्राप्ति के हस्ताक्षर कर दिये। इसी पैटी कैश बुक रजिस्टर में प्रार्थी ने वाउचर संख्या 13 प्रदर्श एम-19 जो लक्ष्मीनारायण से संबंधित है 20 रुपये कन्वेन्स चार्ज प्राप्त के हस्ताक्षर कर दिये। पैटी कैश रजिस्टर प्रदर्श डब्ल्यू-3 में वाउचर 19 प्रदर्श एम-21 बीरबल मोणा से संबंधित है, जिस पर भुगतान प्राप्ति के हस्ताक्षर प्रार्थी ने कर दिए। इसी पैटी कैश रजिस्टर में वाउचर संख्या-2 प्रदर्श एम-20 जो कि लक्ष्मीनारायण से संबंधित है, प्रार्थी ने ओवरराईटिंग कर अपने हस्ताक्षर कर दिए, जैसाकि स्पष्ट दिखाई देता है। इसी प्रकार पैटी कैश रजिस्टर प्रदर्श डब्ल्यू-4 जो प्रविष्टि वाउचर संख्या-27 से संबंधित है, में ओवरराईटिंग कर अपने हस्ताक्षर कर दिए। इस प्रकार पैटी कैश रजिस्टर में उक्त प्रविष्टियों पर प्रार्थी ने भुगतान प्राप्ति के बाबत कन्वेन्स चार्ज दूसरों के नाम से प्राप्त करने के बाबत हस्ताक्षर किए हैं व कुछ प्रविष्टियों पर प्रार्थी के द्वारा भुगतान प्राप्ति के बाबत ओवरराईटिंग कर हस्ताक्षर किए गए। पैटी कैश रजिस्टर व वाउचर प्रदर्श एम-1 से एम-10 के द्वारा प्रार्थी को भुगतान बैंक में सामान आदि लाने के बारे में किया गया है। यह प्रमाणित नहीं है कि पैटी कैश बुक में उन्हीं व्यक्तियों के हस्ताक्षर हैं, जो कि बैंक में कार्यरत कर्मचारी हैं।

प्रार्थी का यह भी कथन है कि उसे बैंक की क्लियरिंग की डिलीवरी हेतु विभिन्न बैंकों में स्थाई उगाही अनुसूची व डाक आदि देने के लिए भेजा जाता था। ऐसी स्थाई उगाही अनुसूची प्रदर्श-15 है। इन स्थाई उगाही अनुसूचियों में बैंक कर्मचारी के रूप में उसका नाम लिखा होता था। क्लियरिंग डिलीवरी हेतु जाने पर कन्वेन्स चार्ज का भुगतान भी किया जाता था, उसमें एक वाउचर प्रदर्श एम-16 है। उसने स्वीकार किया है कि प्रदर्श डब्ल्यू-15 की मूल कॉपी में सांवरमल शर्मा उसके हाथ का लिखा है। अरावली क्षेत्रीय ग्रामीण बैंक शाखा, निवाड़ी से प्राप्त स्थाई उगाही अनुसूचियों में कुछों पर प्रार्थी का नाम अंकित है व शेष पर कोई नाम अंकित नहीं है। प्रार्थी के स्वीकृत हस्ताक्षरों का मिलान उक्त उगाही अनुसूचियों पर प्रार्थी के नाम की लिखावट से किया गया तो उक्त उगाही अनुसूचियों में प्रार्थी की लिखावट प्रतीत होती है। यही स्थिति सेन्दुल कॉपरेटिव बैंक शाखा, निवाड़ी व बैंक ऑफ बड़ौदा से प्राप्त अनुसूचियों की है। अप्रार्थी के साक्षी राकेश कुमार शर्मा का कथन है कि प्रार्थी ने अपना नाम मिली भगत कर उगाही अनुसूचियों में गलत रूप से भरा है। उसका कथन है कि निवाड़ी की डाक बैंक का चपरासी लेकर जाता था। पीओन बुक दिनांक 8-6-90 से 31-7-94 की गायब हो गई, जिसकी सूचना मुख्यालय को दे दी। उसने स्वीकार किया है कि पीओन बुक गायब होने की प्रथम सूचना दर्ज नहीं कराई, मुख्यालय इस बाबत कार्यवाही

करता। उसका यह भी कथन है कि प्रार्थी कोरियर का कार्य करता था जिसे बैंक द्वारा कोरियर डाक भिजवाई थी, जिसका भुगतान प्रार्थी को किया गया था। प्रार्थी के विद्वान प्रतिनिधि का तर्क है कि अप्रार्थी की ओर से प्रार्थी के आवेदन प्रदर्श डब्ल्यू-16 जो कन्वेन्स चार्ज के बारे में है, स्वीकार किया गया है। उक्त आवेदन में उल्लेख है कि प्रार्थी विभिन्न बैंकों में क्लियरिंग के चैक देने गया। अतः उक्त साक्षी के इस कथन को स्वीकार नहीं किया जाना चाहिए कि प्रार्थी को कोरियर के रूप में उक्त भुगतान किया गया। उनका यह भी तर्क है कि जराब क्लेम में ऐसा उल्लेख नहीं किया गया कि प्रार्थी कोरियर का कार्य करता था। उक्त साक्षी का यह कथन कि प्रार्थी कोरियर का कार्य करता था, साक्ष्य में ग्राह्य नहीं है। उन्होंने अपने तर्क के समर्थन में 2000 एल.एल.अर. 617 कुंवर प्रसाद बनाम. केटिव गारमेन्ट्स व अन्य को उद्धृत किया है। उक्त न्याय दृष्टान्त में याची की सेवा समाप्ति से संबंधित विवाद में याची के कान्ट्रैक्ट लेबर होने के बारे में साक्ष्य में प्रथम बार कथन किया गया था, जराब में ऐसा उल्लेख नहीं किया गया था। आश्चर्य प्रकट किया गया कि किस प्रकार श्रम न्यायालय ने यह निष्कर्ष निकाला कि याची कान्ट्रैक्ट लेबर था। उसका यह भी तर्क है कि पीओन बुक दिनांक 08-06-94 से प्रारम्भ हुई, यह विश्वास किए जाने योग्य नहीं है। जवाब क्लेम में खण्ड संख्या 1 में यह उल्लेख किया गया है :—

“The applicant was asked to supply various other items of General use in office and was entrusted with other errands so that his income was supplemented.”

इरेन्ड का अर्थ संदेश कार्य से होता है। अतः यह नहीं कहा जा सकता कि अप्रार्थी की ओर से प्रथम बार यह कथन किया गया कि प्रार्थी कोरियर का कार्य करता था। इसके अतिरिक्त सम्मति अधिकारी के समक्ष भी अप्रार्थी की ओर से प्रदर्श डब्ल्यू-18 में उल्लेख किया गया है कि प्रार्थी उक्त कार्य करता था। अतः प्रार्थी ने विभिन्न बैंकों में डाक दिए जाने के फलस्वरूप कन्वेन्स चार्ज के रूप में आवेदन प्रदर्श डब्ल्यू-16 प्रस्तुत कर रकम प्राप्त की विश्वास किए जाने योग्य है। प्रार्थी की ओर से पीओन बुक दिनांक 08-06-94 से 31-07-95 की तलब किए जाने की प्रार्थना की गई थी जिसके जराब में उल्लेख किया गया कि पीओन बुक गायब हो गई। प्रार्थी स्वयं ने ही जब उक्त अवधि की पीओन बुक तलब कराई जिसके जराब में ऐसा उल्लेख किया गया तो यह कैसे कहा जा सकता है कि पीओन बुक 08-06-94 से प्रारम्भ न होकर किसी अन्य तिथि से प्रारम्भ होती चाहिए थी। प्रार्थी का यह कथन नहीं है कि उसने लिपिक के पद पर कार्य किया है। उगाही अनुसूची उसके द्वारा तैयार की गई हो ऐसा भी नहीं है। कुछ उगाही अनुसूचियों पर प्रार्थी के द्वारा के द्वारा स्वयं अपना नाम लिखने के आधार पर यह निष्कर्ष नहीं निकाला जा सकता कि उगाही अनुसूची दिए जाने हेतु उसे सुपुर्द की गई। अप्रार्थी के साक्षी राकेश कुमार का यह कथन भी विश्वसनीय प्रतीत होता है कि उक्त अवधि की पीओन बुक गायब हो

गई। अतः पीओन बुक पेश नहीं किए जाने के आधार पर अप्राप्ति के विरुद्ध कोई निष्कर्ष भी नहीं निकाला जा सकता।

प्रार्थी का कथन है कि वह खातेदारों को हुआ, चैक अन्य पत्र इन्टीमेशन देने जाता था, जिसका इन्ड्रज पीओन बुक में है। स्टेट बैंक ऑफ इण्डिया से वह बैंक के लिए चैक बुक लाता था, जिसका इन्ड्रज बैंक के रिकार्ड में है। जैसा उल्लेख किया जा चुका है कि पीओन बुक गायब हो जाने के कारण प्रस्तुत नहीं की जा सकी है। प्रार्थी ने किसी ऐसे व्यक्ति या खातेदार को पेश नहीं किया, जिसे वह पत्र अथवा इन्टीमेशन देने गया हो। ऐसी दशा में यह प्रमाणित नहीं होता कि प्रार्थी ने उक्त कार्य किया। स्टेट बैंक ऑफ इण्डिया का चैक बुक रजिस्टर प्रदर्श डब्ल्यू-17 में "ए से बी" व सी से डी प्रविष्टि के जरिए बैंक के लिए चैक बुक प्राप्त करने के प्रार्थी के हस्ताक्षर बताए गए हैं। अप्राप्ति के साक्षी राकेग कुमार शर्मा का कथन है कि उक्त चैक बुक आई या नहीं, रिकार्ड देखकर बताया जा सकता है। स्टेट बैंक ऑफ इण्डिया के रिकार्ड के मुताबिक चैक बुक आई। प्रार्थी को चैक बुक लाने हेतु अधिकृत किया इस बारे में कोई अधिकार पत्र प्रस्तुत नहीं किया गया है। स्टेट बैंक ऑफ इण्डिया के चैक बुक रजिस्टर प्रदर्श डब्ल्यू-17 में "ए से बी" प्रविष्टि चैक बुक दिनांक 20-08-94 को बैंक को जारी किए जाने के बारे में है। इससे पूर्व प्रविष्टि दिनांक 21-08-94 की है व आगे की प्रविष्टि 25-08-94 की है। जिससे यह प्रविष्टि संदिग्ध प्रतीत होती है। यह जांच का विषय है कि प्रविष्टि इस प्रकार की गई, जबकि अन्य प्रविष्टि तारीख के क्रमानुसार है। इस संभावना से इंकार नहीं किया जा सकता कि प्रविष्टि बाद में तैयार की गई है व उक्त प्रविष्टि के आधार पर यह निष्कर्ष नहीं निकाला जा सकता कि प्रार्थी ने बैंक के लिए उक्त बैंक से चैक बुक प्राप्त की। एम. के. एन. प्रविष्टि बैंक को चैक जारी किए जाने के बारे में है जिसकी प्राप्ति की बाबत किसी के हस्ताक्षर नहीं हैं। प्रार्थी के आचरण को दृष्टिगत रखते हुए इस संभावना से इंकार नहीं किया जा सकता कि प्राप्तकर्ता के हस्ताक्षर के ऐसे ही रिक्त स्थान होने के कारण उसने प्राप्तकर्ता के रूप में हस्ताक्षर कर दिए हैं।

जैसा कि उल्लेख किया जा चुका है प्रार्थी यह प्रमाणित नहीं कर पाया है कि दिनांक 08-06-94 से 31-07-95 की अवधि की दैनिक मजूरी का भुगतान उसे किया गया। कन्वेन्स चार्ज का भुगतान व चाय व अन्य सामान के भुगतान प्राप्त करने के आधार पर यह निष्कर्ष नहीं निकाला जा सकता कि प्रार्थी दिनांक 08-06-94 से 31-07-95 के बीच बैंक के नियोजन में रहा। प्रार्थी चाय की दुकान करता था व उसने चाय व अन्य सामान सप्लाई कर उसका भुगतान बैंक से प्राप्त किया। प्रार्थी ने बैंक में नियोजन प्रमाणित करने हेतु असफल प्रयास किया है। प्रार्थी के विद्वान प्रतिनिधि ने केस नं. सी. आई.टी. 18/95 केन्द्रीय औद्योगिक न्याय, धरमपुर में पारित पंचाट दिनांक 05-05-2001 की प्रतिलिपि प्रस्तुत कर तर्क दिया है कि बैंक की गलत कथन करने की प्रवृत्ति है। इस बारे में तो इतना ही उल्लेख

करमा उचित प्रतीत होगा कि प्रस्तुत मामला उक्त मामले से विपरीत है।

चूंकि यह प्रमाणित नहीं हो पाया है कि प्रार्थी दिनांक 8-7-94 से 31-7-95 तक बैंक के नियोजन में था, अतः बैंक के द्वारा उसे दिनांक 01-08-95 को सेवामुक्त किए जाने का प्रश्न उत्पन्न नहीं होता।

बिन्दु संख्या :-2 प्रार्थी व बैंक के बीच कर्मकार व नियोजक का संबंध स्थापित नहीं हो पाया, अतः प्रस्तुत मामले में अधिनियम, 1947 की धारा 25-ए एवं जी एवं एच आकृष्ट नहीं होते।

बिन्दु संख्या :-3 उक्त विवेचन के आधार पर प्रार्थी का बैंक में दिनांक 8-06-94 से निवृत्त होकर 31-07-95 तक निरन्तर कार्य किया जाना प्रमाणित नहीं है व दिनांक 01-08-95 से उसे सेवामुक्त किया जाना भी प्रमाणित नहीं है। अतः प्रार्थी कोई सहायता प्राप्त करने का अधिकारी नहीं है।

पंचाट की प्रतिलिपि केन्द्रीय सरकार को अधिनियम, 1947 की धारा 17 की उपधारा (1) के अंतर्गत प्रकाशनार्थ प्रेषित किया जाए।

नई दिल्ली, 12 सितम्बर, 2001

का.आ. 2679:— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार लाई कृष्णा बैंक लि., के प्रबंधन के संबंध नियोजकों और उनके कर्मकारों के बीच, प्रबंधन में निरिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण अलापूजा के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-09-2001 को प्राप्त हुआ था।

ह०/- अपठनीय
पीठासीन अधिकारी

[सं. एल-12012/98/99-आई.आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 12th September, 2001

S.O. 2679.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Alappuzha as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Lord Krishna Bank Ltd. and their workman, which was received by the Central Government on 11-9-2001.

[No. L-12012/98/99-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

IN THE COURT OF THE INDUSTRIAL
TRIBUNAL : ALAPPUZHA

(Dated this the 18th day of August, 2001)

PRESENT

Shri M. N. Radhakrishna Menon, Industrial Tribunal.

I.D. No. 37/99(C)

BETWEEN

The Chairman, Lord Krishna Bank Ltd., Administrative Office, Indian Express Buildings, Kaloor, Kerala State, Kochi.

AND

The workman of the above concern represented by Shri. Rajesh Kumar, K. S., Lakshmi Bhavan, Ettumanoor, P.O., Thavalakuzhy, Kottayam-686,631.

REPRESENTATIONS :

Sri. Suresh Kumar, Advocate, Ernakulam.—For Management.

M/s. H. B. Shenoy and Ashok, B. Shenoy, Advocates, 'Vatsal', Ernakulam, Cochin-682/035.—For Workman

AWARD

1. The Central Government has, as per their order No. L-12012/98/99 IR(B-I), dated 4-8-1999 referred this industrial dispute between the above parties in respect of the following issues for adjudication to this Tribunal :

“Whether there existed any employee-employer relationship between the management of Lord Krishna Bank Ltd and Sri. Rajesh Kumar, K. S. Data Entry Operator/Computer Operator of Kottayam Branch? If so, whether the action of the management in terminating his services with effect from 18-6-98 is justified? If not, to what relief the workman is entitled to?”

2. Sri. Rajesh Kumar, K. S., has submitted a claim statement setting out the following contentions before the Tribunal :—

3. He was employed as Data Entry Operator/Computer Operator in the Clerical Cadre of the management Bank at their Kottayam branch from 1-6-1996 to 18-6-1998 continuously and uninterruptedly. On 18-6-1998, his services were terminated by the Bank. At the time of his entering the service of the Bank, no appointment letter was issued to him even though he was employed to do regular and permanent works in the Bank. He was treated as a contract labour on the pretext of a sham contract with M/s. Aptech Computer Education, Kottayam, (hereinafter referred to as Aptech for short). Though he was doing perennial and regular nature of works with the management under the direct supervision and control of the Officers of the management Bank. This contract arrangement was cooked up so as to deny him the status and privileges of a permanent workman in the Bank. He was working within the Bank's premises and all working materials including stationery were furnished by the Bank. He was paid wages directly by crediting it to his

Savings Bank account maintained with the management Bank. There was employer-employees relationship between the Bank and himself. He is a workman under Section 2(s) of the Industrial Disputes Act, 1947. His termination is arbitrary and is effected in violation of Section 25-F, 25-G and 25-H of the Industrial Disputes Act, and various provisions of the awards of the National Tribunal and Bipartite settlements, relating to the banking industry. Thus his termination is illegal and unsustainable. Therefore, it was prayed that an award may be passed holding that there was employer-employee relationship between the Bank and himself and setting aside his termination and awarding reinstatement with full back wages, continuity of service and other consequential benefits.

4. The management submitted a written statement setting out the following contentions :—

5. The claim raised by Sri. Rajesh Kumar are unsustainable. In 1995, the management Bank has decided to computerise operations in some of their branches including their Kottayam branch. For this, it was necessary to enter the data relating to the transactions and entries in the manual records maintained in the bank. Since it was not a regular work of the Bank and it was not feasible to employ permanent workers for this purpose, the Bank has entered into a job contract with an outside agency viz., 'Aptech' to carry out this work. In compliance with this contract, a above agency sent several persons including Sri. Rajesh Kumar to the Kottayam branch to carry out the above works. They were working under the direct control and supervision of M/s. Aptech. Their work was not supervised by the Officers of the management as alleged by Sri. Rajesh Kumar. None of the persons sent by Aptech has worked continuously in the branch. Since Sri. Rajesh Kumar was not appointed in the services of the Bank, he was not issued with any appointment letter. He was not entrusted with any duty by the Bank and all along, he was doing works as per the directions of M/s. Aptech. He was not doing any regular works in the Bank. There is no permanent Clerk in the Bank occupying the post of Data Entry Operator/Computer Operator. Since he was not an employee of the Bank, he is not entitled to get any salary, privileges and benefits available to its regular employees. His allegations that the job contract was sham and he was doing regular works in the Bank and it was with a view to deprive him of all the benefits of a permanent employee that he was treated as contract labour, are not correct. The contract with Aptech was bonafide genuine and valid. The works entrusted with Aptech could be carried on beyond the premises of the Bank also. Since the records from which the data are to be entered were required for the day-to-day banking operations, the works were arranged to be carried out in the premises of the Bank itself. The averment of Sri. Rajesh Kumar that the works were confined to the premises of the Bank is not correct. The remuneration for the work carried out were reimbursed to the Aptech against their invoice presented by them. By January, 1998, the works were almost completed and service of only personnel was sufficient to complete the works. So the Aptech deputed Sri. Rajesh Kumar and instructed the Bank to pay him a sum of Rs. 1,000 per month as stipend pending finalisation

of their account with the Bank. Thus the monthly payment was credited to his S. B. Account and disbursed to him. On 18-6-1996, the works entrusted with Aptech were fully completed and therefore, Sri. Rajesh Kumar need not have come for work from the above date. There was no employer-employee relationship between the Bank and Sri Rajesh Kumar. He is not a workman under Section 2(s) of the Industrial Disputes Act. He was not in the services of the Bank and his services were not terminated by the Bank. Therefore, the management prayed for passing an award accepting their contentions and rejecting the claims raised by Sri. Rajesh Kumar.

6. Evidence in this case consists of oral evidence or WW1 and MWs 1 to 3 and Ext. M1 to M12.

7. From the divergent stands adopted by the parties, the issues that arises for my consideration are whether there was employer-employee relationship between Sri. Rajesh Kumar and the Bank and whether his disengagement was vitiated by law. If so, what are the reliefs that he is entitled to?

8. The Point.—It is the claim of Sri. Rajesh Kumar that he was working with the management Bank from 1-6-1996 to 18-6-1998 as a data entry Operator/computer operator in the Kottayam branch of the management Bank and his services were terminated on 18-6-1998. It is the contention of the management that there is no post of data entry operator/computer operator in the Bank, the Bank has entered into a job contract with M/s. Aptech and Sri. Rajesh Kumar was a person sent by Aptech and there was no employer-employee relationship between them and therefore there does not arise the question of terminating his services by the Bank from 18-6-1998 onwards. Thus the issue that emerges for my consideration is whether there was employer-employee relationship between the Bank and Sri. Rajesh Kumar or not.

9. Any person, to get the protection of Industrial Dispute Act, should be a workman as defined in the said Act. Section 2(s) of the Industrial Disputes Act deals with the definition of "workman". The definition as far as it is relevant to the context is extracted below :—

"Section 2(s) "workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward whether the terms of employment be express or implied and....."

10. In order to become a workman as per the above definition, he shall be a person employed in any industry. His employment shall be for doing works such as manual, unskilled, skilled, technical, operational, clerical or supervisory work. Further, the employment shall be for hire or reward, and there shall be terms of employment which may be express or implied.

11. It is common case of parties that the banking operations constitute an industry. The person involved in this dispute was attending works such as clerical, skilled, technical etc. which are stipulated in the above definition and it was for hire or reward or re-

muneration. The real dispute is whether he was employed in the Bank or whether it evolved a contract of employment between the Bank and Sri Rajesh Kumar. The principles of contract of employment are akin to the principles of law of contract. It has to be ascertained from the materials on record as to whether a contract of employment is developed between the Bank and Sri. Rajesh Kumar.

12. It is common case that the management has got carried out certain works in connection with computerisation of their Kottayam Branch by entering into a job contract arrangement with M/s. Aptech. It has been clearly admitted by Sri Rajesh Kumar in his evidence as WW1, that he has gone to the Kottayam Branch and attended data entry works as directed by Aptech. It is further admitted by him that he has not applied for any post in the Bank and he has not obtained any appointment letter from the Bank. He has not submitted any written request seeking employment in the Bank. He is not aware of whether he is qualified to get a job in the Clerical Cadre in the Bank. He has not appeared for any written test or interview in the Bank. He has not signed any attendance register in the Bank. He has never requested the Bank to extend pay and perks applicable to Bank staff. In view of the above, it cannot be believed for a moment that there developed a contract of employment or an employer-employee relationship between the Bank and Sri Rajesh Kumar as claimed by him.

13. Sri Rajesh Kumar has a case that he was working within the Bank's premises and his works were supervised by the Bank Manager. This is disputed by the management. The management submits that since the records were required for day-to-day use, the works were got done in the premises of the branch itself, but there was no supervision of his works by any management personnel attached to the Bank. This aspect of the management's case was clearly made out from the testimony of Sri. Raveendran then Manager of the Kottayam Branch as MW2. His evidence on this aspect is not at all controverted. Smt. Laly Joseph, centre head of Aptech has clearly testified before me as MW3 that Sri Rajesh Kumar was deputed by them and the equipments were hired from outside agencies and the works of their people were controlled and supervised by them and their remuneration on terms were fixed and paid by them. Her evidence on the above aspects are not controverted by Sri. Rajesh Kumar in any manner. In view of the above and in the light of the peculiar nature of job works entrusted with an outside agency and the business nature of banking industry, by permitting the persons sent by the agency to work within the premises of the Bank, it will not make the arrangement otherwise than contractual and it will not confer any employment status to the persons sent by the agency.

14. Ext. M9 is the certified statement of accounts in respect of SB account No. 17183 maintained by the Kottayam branch of the management Bank in the name of Sri. Rajesh Kumar from 1-6-1996 to 30-6-1998. It evidence that payment at the rate of Rs. 1,000 is credited by the Bank in the above account on 11-2-1998 by transfer, Rs. 1000 on 3-3-1998 as transfer by salary, Rs. 1,000 on 4-4-1998 as transfer by miscellaneous expenses, Rs. 1,000 on 11-5-1998

as transfer by salary and Rs. 1000 on 2-6-1998 as transfer by salary. Based on this, it was claimed by Sri. Rajesh Kumar that he was paid remuneration directly by the Bank and there evolved employer-employee relationship between the Bank and himself. This is disputed by the management. Their contention is that by January 1998, the contract work was almost completed and it required the services of only one person to complete the process. For this purpose M/s. Aptech deputed Sri. Rajesh Kumar and the Bank was instructed to pay him directly as a matter of convenience, and that is how the payments were credited in his SB Account. The entries as salary are made therein by mistake. I have considered the merit of the contentions of parties in the light of the materials on record. Smt. Laly Joseph the Centre head of Aptech has clearly deposed before me as MW3 that at the final stage of execution of their contract, services of only one person were required and therefore she deputed Sri. Rajesh Kumar and as per Ext. M3 letter instructed the Bank to make payment of stipend directly to him. Her evidence on the above aspect is not controverted in any manner. Therefore the case of the management that in view of the above instructions, they have paid remuneration to Rajesh Kumar directly by crediting it in his SB Account, inspires confidence. But the case of Rajesh Kumar to the contrary does not inspire confidence.

15. In view of the above, the conclusion is inescapable that Sri Rajesh Kumar was a person employed by the contractor vis., 'Aptech' and there was no employer-employee relationship developed between the Bank and himself. Thus he is not a person employed in the Bank and here is no contract of employment evolved between the Bank and himself as contemplated in Sec. 2(s) of the Industrial Dispute Act. This conclusion is fortified by the following observations of the Supreme Court in *Workmen of Food Corporation of India Vs. Food Corporation of India* 1985 II LLJ (4) also.

"The expression employed has at least two known connotations but as used in the definition, the context would indicate that it is used in the sense of relationships brought about by express or implied contract of service in which the employee renders service for which he is employed by the employer and the latter agrees to pay him in cash or kind as agreed between them or as statutorily prescribed. It discloses a relationship of command and obedience. The essential condition of a person being a workman within the terms of the definition is that he should be employed to do the work in that industry and that he should be in other words an employment of him by the employer and that there should be relationship between the employer and him as between employer and employee or master and servant. Unless a person is thus employed, there can be no question of his being a workman within the definition of the term as contained in the Act.

where a contractor employs a workman to do the work which he contracted with a third person to accomplish on the definition

as it stands, the workman of the contractor would not without something more become the workman of third person"

16. It has been argued by the counsel for Sr. Rajesh Kumar that the contract entered into between the Bank and the Aptech was a sham and ingenuine contract and therefore, the persons deputed by Aptech shall be treated as persons employed by the Bank directly. I have considered the merit of the contention in the light of the materials on record and the relevant law on the point. Sri. Rajesh Kumar has no contention that contract labour is prohibited with regard to data entry operations in Banks. It is come out in evidence that the contract was for a temporary period and it was a one time affair. In other words, it was not a perennial work and to keep regular set of workers was not feasible for carrying out the works attended to by the contract labour. Thus it has to be concluded that the contract was real, bonafide and genuine. It is come out from the evidence of Smt. Laly Joseph the Centre head of Aptech as MW3 that they constitute an educational agency and the persons deputed by them to the Bank were actually their students and the payments effected were stipends. They were sent for gaining practical experience and at the same time to have some earnings. This evidence is not controverted in any manner. Thus there was no employer-employee relationship between the Aptech and the persons deputed by them to attend works in the Bank. Consequently, the persons sent by M/s. Aptech to the Bank cannot claim employment relationships with the Bank on any score. Besides, the materials in record indicate that he has rendered service even as a contract labour only for five months. Such a person has no right of continued employment in Industrial law under any employer. Thus the claims of employment relationships and for continued employment with the Bank raised by Sri. Rajesh Kumar are ill conceived and ill advised. Thus he is not eligible to get any reliefs in the present reference.

17. In the result, an award is passed holding that there was no employer-employee relationship between the management of Lord Krishna Bank Ltd., and Sri. Rajesh Kumar and therefore, he is not eligible to get any reliefs against the Bank in the present reference.

(Dated this the 18th day of August 2001)

M. N. RADHAKRISHNA MENON, Industrial
Tribunal

Appendix

I.D. No. 37/99(C)

Witness examined on the side of the Management:

MW1 : Abraham Samuel,

MW2 : Raveendran,

MW3 : Laly Joseph.

WW1 : Rajesh Kumar

Witness examined on the side of the Workman

Exhibits marked on the side of the Management :

- M1 : Letter dated 29-6-95 sent from Aptech Computer Education, Kottayam to the management.
- M2 : Letter dated 14-7-95 sent by the Management to Aptech Computer Education, Kottayam.
- M3 : Letter dated 5-1-98 sent from Aptech Computer educational Kottayam to the management.
- W4 : Letter dated 10-1-98 sent from Aptech Computer Education, Kottam to the management.
- M5 : Receipt dated 5-1-98 for Rs. 79,000 issued from Aptech Computer Education, Kottayam to the management.
- M6 : Receipt dated 5-1-93 for Rs. 66,000 issued from Aptech Computer Education, Kottayam to the management.
- M7 : Receipt dated 10-7-98 for Rs. 3,000 issued from Aptech Computer Education, Kottayam to the management.
- M8 : Receipt dated 10-7-98 for Rs. 29,000 issued from Aptech Computer Education, Kottayam to the management.
- M9 : Statement dated 16-6-2000 maintained by the management for the period from 1-6-96 to 30-6-98 in respect of the account number SB. 17183.
- M10 : Letter dated 1-8-95 sent from the Aptech Computer Education, Kottayam to the management.
- M11 : Letter dated 21-11-95 sent from the Aptech Computer Education, Kottayam to the management.
- M12 : Letter dated 11-12-97 sent from the Kottayam branch to the Administrative office Ernakulam of the management Bank.

Exhibits marked on the side of the workman:

NIL

(Dated this the 18th day of August, 2001).

M. N. RADHAKRISHNA MENON, Industrial Tribunal Alappuzha

नई दिल्ली, 12 सितम्बर, 2001

का.प्र. 2680:— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/थम न्यायालय भुवनेश्वर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-09-2001 को प्राप्त हुआ था।

[सं. एन-12012/145/96-आई. प्रार. (बी-1)]

अजय कुमार, डैस्क अधिकारी

New Delhi, the 12th September, 2001

S.O. 2680.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of State Bank of India and their workman, which was received by the Central Government on 11-9-2001.

[No. L-12012/145/96-IR(B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT :

Shri S. K. Dhal, OSJS. (Sr. Branch),
Presiding Officer. C.G.I.T.-cum-Labour,
Court, Bhubaneswar.

Tr. INDUSTRIAL DISPUTE CASE NO.
127/2001

Date of conclusion of hearing 08-08-2001
Date of Passing Award 6th September, 2001

BETWEEN

The Management of the Branch Manager,
State Bank of India Evening Branch,
Mongal Bhawan, Daily Market,
Main Road, Rourkela. 1st Party-
Management.

AND

Their Workman, Shri Pitabas Jena,
O.S.R.T.C. Garrage Colony,
Sector-2, Rourkela-6.
Dist. Sundargarh. 2nd Party-Workman

APPEARANCES :

Shri U. S. Mishra, Deputy Manager,
(Law), Shri N. B. Madhab, Asst.
Manager, (Law). For the 1st Party-
Management.

Shri B. S. Pati, General Secretary,
North Orissa Workers Union. For the
2nd Party-Workman.

AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-12012/145/96-1R(B-1), dated 28-8-1997 :—

“Whether the termination of Shri Pitabash Jena, Ex-Employee by the Management of State Bank of India, Evening Branch, Rourkela, with effect from 27-09-1995 is legal and justified. If not, what relief the workman is entitled to?”

2. The Workman has filed his Claim Statement. His case is that on 01-01-1991 he joined as a Messenger in the Kalunga Branch of 1st Party-Management on temporary basis. He was paid Rs. 750 per month. He worked there as such till 28-10-1993. Thereafter he was transferred to the Evening Branch of Daily market area of Rourkela, which is under the 1st Party-Management. He joined in the Evening Branch on 1-10-1993. There he worked as a Messenger till 28-9-1995. It is stated that he was being paid monthly wages of Rs. 900. On 28-9-1995 the Branch Manager refused him employment verbally. He made representation but no response came from the 1st Party-Management. Hence, he raised a dispute on the ground that he was retrenched without any notice of termination and no compensation was paid to him. After the failure of reconciliation the above reference has been made.

3. The 1st Party-Management has filed their Written Statement. They have denied all the averments made by the 2nd Party-Workman. The case of the 1st party-Management is that the 2nd Party-Workman was never engaged as a Messenger at Kalunga Branch, of the 1st Party-Management nor he worked from 1-10-1993 to 28-9-1995. He was engaged by the Kalunga Branch of the 1st Party-Management on purely contract basis as and when required between March 1992 to 28-10-1992 at a contractual rate for that work. From 13-4-1992 to 30-6-1992 his services was engaged for filling of water in the Air Cooler in the Bank at the contractual rate of Rs. 2 per bhar and he was paid of Rs. 1240. Thereafter he also supplied

water from 7-4-1993 to 30-6-1993. During the year 1993 he was paid Rs. 1400. The 1st Party-Management has taken the stand that the 2nd Party-Workman is not entitled for regularization as he has not completed 240 days continuous service. On the above pleadings of the parties following issues have been settled.

4. On the above pleadings of the parties the following issues have been settled :—

ISSUES

I. Whether the termination of Shri Pitabash Jena, Ex-Employee, by the Management, State Bank of India, Evening Branch, Rourkela, with Effect from 27-9-1995 is legal and justified?

II. If not to what relief the workman is entitled?

5. The Workman has examined himself as the sole witness. On behalf of the Management three witnesses have been examined. Both the parties have exhibited some documents in support of their respective case.

FINDINGS

6. In the oral evidence of the 2nd Party-Workman he has stated that, he was engaged 1-1-91 on in Kalunga Branch of the 1st Party-Management and worked there till 28-10-1993 and was being paid as sum of Rs. 750 per month. Thereafter he was transferred to the Evening Branch at Rourkela. After joining on 1-11-1993 he worked as a Messenger till 28-9-1995. In the cross examination he was suggested that he was not working as a Messenger but was supplying water and was not getting Rs. 750 per month but was being paid wages. He has also suggested that during re-conciliation proceeding he admitted to have worked from 1-10-1993. He has denied those suggestions. Admittedly no appointment letter or transfer letter have been produced on behalf of the Workman. He has admitted that, no appointment letter was issued to him and no transfer order was given to him. His submission is that he was being paid Rs. 750 per month at Kalunga Branch and Rs. 900 at the Evening Branch. Rourkela has not been supported by any documents. He has not taken any step to pray the Tribunal to direct the 1st Party-Management for cause production of any documents which could have supported his case

that he was being paid Rs. 750 per month at Kalunga Branch and Rs. 900 per month at the Evening Branch Rourkela. Not a single piece of documents have been filed on behalf of the Workman to support his case. On the other hand the evidence of the Witness examined on behalf of the Management. Witness No. 1, 2 and 3 and the documents exhibited by the Management support their stand. Ext.-A series are the copies of the vouchers under which payment have been made to the Workman. Ext.-B reflects the days of engagement of the Workman and purpose for which he was engaged. Ext.-C is the statement showing the period of engagement of the 2nd Party-Workman. Ext.-A series discloses that for doing different types of work he has received different amounts. It will be sufficient to refer to one. In Ext.-A under voucher No. 140 he has received Rs. 10 for going to Post Office. Under Voucher No. 141, he has received for loading of a box. Ext.-B discloses from 31-3-1992 to 30-1-1993 his services was engaged for cleaning, sweeping, filling of water into the Air-Coolers, arrangement of stationeries and for cleaning of out side Office premises. Ext.-C discloses the number of days worked from 1-11-1993 to 30-9-1995. Both the oral and documentary evidence of the Management stands un-challenged. In the cross examination nothing has been brought out from the month of the witness examined on behalf of the Management to disbelieve their evidence and the documents exhibited on their behalf.

7. The main grievance of the Workman is that the termination of his service is in violation of Section 25(F) of the Industrial Dispute Act 1947. So the question for consideration is whether the Workman can be said to have been retrenched within the meaning of Section 25(F) of Industrial Dispute Act. The evidence adduced on behalf of the Management which stands unrebutted as established that the engagement of the workman was on the basis of need of the work. The Workman has failed to establish that there was sanctioned post in existence and he was worked against that post continuously for 240 days. In my opinion, even if it is accepted for the argument sake that the Workman has completed 240 days work it does not import the right for regularization. It merely imposes certain obligation on the employer at the time of termination of the services. In this case, as I have stated the service

of the Workman was engaged when there was need of work. When there was no work he was refused employment.

8. As per my above discussions, my answer to the reference is, the termination of Shri Pitabash Jena, Ex-Employee of the Management of State Bank of India, Evening Branch, Rourkela, with effect from 27-9-1995 is legal and justified and the workman is not entitled for any relief.

9. The reference is answered accordingly.

S. K. DHAL, Presiding Officer

नई दिल्ली, 12 सितम्बर, 2001

का.आ. 2681:— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेवाड़ ग्रामीण बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मका में निहित औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय उदयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-09-2001 को प्राप्त हुआ था।

[सं एल-12012/17/99-आई.आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 12th September, 2001

S.O. 2681.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal/Labour Court, Udaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Mewar Gramin Bank and their workman, which was received by the Central Government on 11-9-2001.

[No. L-12012/17/99-IR(B-I)]

AJAY KUMAR, Desk Officer

अनुबंध

न्यायालय : न्यायाधीश, औद्योगिक विवाद अधिकरण एवं श्रम

न्यायालय, उदयपुर

पीठासीन अधिकारी : श्री पी एन खण्डेलवाल,

आर एच जे एस

औ. विवाद संख्या 3/99

उमेश कुमार पुत्र नाथ मालवी, निवासी गांव एवं पोस्ट धाणा, बाया चाखण्ड तह. सराड़ा जिला उदयपुर

—प्रार्थी

बनाम

अध्यक्ष, मेवाड़ आंचलिक ग्रामीण बैंक, प्रधान कार्यालय 22 गोविन्दपुरा कालोनी, एम. बी. कालेज ग्राउण्ड के सामने, उदयपुर

-----विपक्षी

उपस्थित --

प्रार्थी की ओर से : श्री शिव भूषण शर्मा

विपक्षी की ओर से : श्री बी. एल. गुप्ता

दिनांक 17-07-2001

पंचाट

भारत सरकार के श्रम विभाग द्वारा जरिए पत्र क्रमांक एन-12812/17/99 आई.आर. (बी-1)-दि. 18-05-99 द्वारा निम्न आशय का प्रसंग इस न्यायालय को प्रेषित किया गया।

“क्या मेवाड़ आंचलिक ग्रामीण बैंक द्वारा श्री उमेश कुमार सालवी को सेवा से पृथक करना उचित एवं वैध है? यदि नहीं तो श्रमिक किस राहत को पाने का अधिकारी है?”

उक्त आशय का प्रसंग प्राप्त होने पर न्यायालय द्वारा दिनांक 11-06-98 को दर्ज रजि. किया जाकर पक्षकारान को नोटिस जारी किए गए जिस पर प्रार्थी की ओर से क्लेम व विपक्षी की ओर से जवाब पेश किया गया।

संक्षेप में प्रार्थना पत्र के तथ्य इस प्रकार हैं कि प्रार्थी विपक्षी के अधीन दिनांक 1-2-91 से 21-5-91 तक मेवाड़ आंचलिक ग्रामीण बैंक की शाखा थाणा (वर्तमान खेरवाड़ा) में, दि. 19-7-93 से 25-7-95 तक शाखा थाणा एवं दि. 26-7-95 से 23-9-96 तक शाखा खेरवाड़ा में अंशकालीन संदेशवाहक के पद पर लगातार कार्य किया एवं प्रत्येक माह का भुगतान प्राप्त किया है। दि. 24-9-96 को प्रार्थी को ड्यूटी पर नहीं लिया व कहा गया कि प्रधान कार्यालय से भ्रमण संदेश वाहक आ गया है व प्रार्थी की उक्त दिनांक से सेवा समाप्त कर दी गई। प्रार्थी ने अपनी सेवाएं संतोष-प्रद प्रदान कीं। भुगतान का वाउचर मोहनलाल सालवी, मोहनलाल मेघवाल एवं नारायणलाल के नाम से बनाया गया व उन्हीं के हस्ताक्षर करवा प्रार्थी को भुगतान किया गया। प्रार्थी को सेवा मुक्त करने के समय छंटनी मुआवजा नहीं दिया गया तथा फस्ट कम लास्ट गो' के सिद्धांत की अवहेलना की गई। सेवा समाप्ति अनूचित व अवैध बताया गया। अतः प्रार्थी को पुनः सेवा में लिया जाकर समस्त लाभ, वेतन भत्ते, इन्क्रीमेंट आदि प्रदान कराए जावें।

विपक्षी ने प्रार्थी के प्रार्थना पत्र का प्रत्युत्तर इस प्रकार दिया है कि प्रार्थी ने विपक्षी के यहां पूर्णतया अंशकालीन दैनिक मजदूर के रूप में तत्समय प्रचलित पारिश्रमिक दर पर विपक्षी बैंक की थाणा शाखा में दि. 1-2-91 से 7-3-91 तक 23 दिन, दिनांक 11-3-91 से 30-3-91 तक 6 दिन, दि. 1-4-91 से 6-5-91 तक 19 दिन एवं दिनांक 8-5-91 से 18-5-91 तक 10 दिन मात्र कुल 58 दिन ही कार्य किया है। प्रार्थी से दि. 19-7-93 से 25-7-95 तक एवं/अथवा दि. 26-7-95 से 23-9-96 तक थाणा एवं/अथवा खेरवाड़ा शाखा में न तो कार्य लिया गया

न प्रार्थी ने कोई कार्य ही किया है। प्रार्थी का नियोजन आकस्मिक अंशकालीन थाणा तथा आवश्यकतानुसार था। अतः उसे सेवा से टर्मिनेट करने की आवश्यकता भी नहीं थी। प्रार्थी कोई अनुतोष पाने का अधिकारी नहीं है। अतः केन्द्र सरकार को इस आशय का एवार्ड पारित कर प्रकाशनार्थ संप्रेषित किया जावे कि प्रार्थी किसी भी अनुतोष को पाने का अधिकारी नहीं है।

प्रार्थी के प्रार्थनापत्र के समर्थन में शपथ पत्र प्रस्तुत नहीं किया जबकि विपक्षी की ओर से अनिल मेहता केन्द्रीय कार्यालय में आफिसर का शपथ पत्र प्रस्तुत हुआ। इस साक्षी से प्रतिपरीक्षण किया गया। दम्नावेजी साक्ष्य किसी भी पक्ष द्वारा पेश नहीं की गई।

न्यायालय द्वारा सम्पूर्ण तथ्यों का अवलोकन किया जाकर दोनों पक्षों के प्रतिनिधिगण की बहस सुनी गई। जिसमें लगभग उन्हीं तथ्यों का विस्तार के साथ उल्लेख किया गया जिनका उल्लेख क्लेम व जवाब में किया गया है। सभी परिस्थितियों पर विचार करने के उपरान्त यह देखना है कि इस प्रकरण में किस आशय का एवार्ड पारित किया जाना चाहिए।

विपक्षी साक्षी ने अपने शपथपत्र में उन्हीं तथ्यों का उल्लेख किया जो प्रत्युत्तर में अंकित है। प्रतिपरीक्षा में इस साक्षी का कथन है कि प्रार्थी ने हमारे यहां अंशकालीन मजदूरी पर 58 दिन काम किया था। डेलीवेजेज पर रखे गए मजदूरों की उपस्थिति उपस्थिति रजि. में दर्ज नहीं की जाती है। जितने दिन काम करते हैं उस हिसाब से प्रचलित दर पर भुगतान कर दिया जाता है। भुगतान बैंक के पे ऑर्डर के माध्यम से किया जाता है। पे ऑर्डर पर भुगतान प्राप्त करने वाले कर्मचारी के हस्ताक्षर होते हैं जो हमारे रिकार्ड में रहता है।

प्रार्थी ने अपने आवेदन के समर्थन में कोई साक्ष्य प्रस्तुत नहीं की है जबकि विपक्षी ने जो साक्ष्य व शपथ पत्र प्रस्तुत किया है उससे यह स्पष्ट है कि प्रार्थी ने केवल 58 दिन ही कार्य किया है। प्रार्थी का नियोजन आकस्मिक अंशकालीन था तथा आवश्यकतानुसार था। अतः प्रार्थी का यह आवेदन स्वीकार किए जाने योग्य नहीं है। तदनुसार यह विवाद अधिनिर्णीत किया जाता है।

अतः अध्यक्ष मैनेजर मेवाड़ आंचलिक ग्रामीण बैंक, उदयपुर द्वारा प्रार्थी उमेश कुमार को सेवा से पृथक करना उचित एवं वैध है। प्रार्थी को कोई अनुतोष देय नहीं होता है। पंचाट प्रकाशनार्थ भारत सरकार को प्रेषित किया जावे।

पंचाट आज दि. 17-7-2001 को खुले न्यायालय में लिखाया जाकर मुताया गया।

पी. एन. खण्डेनवाल, न्यायाधीश

नई दिल्ली, 2 जुलाई, 2001

AWARD

का.आ. 2682.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार तथा मेलाना के प्रबंधन के संबद्ध निजीक और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, विशाखापटनम के पंचद को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-7-2001 को प्राप्त हुआ था।

[नं. एल-14025/13/2001-आई.आर. (डीयू)]

कुलदीप राय वर्मा, ईशक अधिकारी

New Delhi, the 2nd July, 2001

S.O. 2682.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal-cum-Labour Court Visakhapatnam, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Ministry of Defence and their workmen, which was received by the Central Government on 2-7-2001.

[No. L-14025/13/2001-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

IN THE COURT OF INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, VISAKHAPATNAM

PRESENT :

Sri K. Veerapu Naidu, B.Sc., B.L., Chairman and Presiding Officer.

Dated : 1st day of June, 2001

L.T.D. (C) 61/99

BETWEEN :

Karri Shivaram, S/o Appala Konda
W/o S. Gangadhara Reddy, Advocate,
D. No. 9-1-75/1, New Recapuvanipalem,
Visakhapatnam-13. .. Workman

AND

- (1) The Flag Officer,
Commanding in Chief for CSOC (P&A)
Headquarters,
Eastern Naval Command,
Naval Base Port, Visakhapatnam.
- (2) The Captain,
INS Virababu, Samudrika,
Naval Auditorium Naval Base,
Visakhapatnam. .. Management.

This dispute coming on for final hearing before me in the presence of Sri S. G. Reddy, advocate for workman and the Government pleader for Management. Upon hearing the arguments of both sides and on perusing the entire material on record, the court passed the following :

(1) This is an application filed under Section 2A(2) of the Industrial Disputes Act, 1947 for reinstatement with back wages.

(2) The case of the petitioner is that he was appointed as Safaiwala in the Samudrika Naval Auditorium, Naval Base, Visakhapatnam on 1-10-92 and he worked as such till 30-4-99, and he was paid Rs. 683 per month. He was working for 8 hrs. for a day for 26 days in a month. He was not paid minimum wages and hence workers union filed M.W. 104/95 before the Authority i.e. Asstt. Commissioner of Labour Circle-II, Visakhapatnam and it was allowed. The respondents filed a writ petition No. 15863/97 questioning the said order and it is pending before the Hon'ble High Court. While so, they made an attempt to terminate the services of Union General Secretary by name Sri S. Srinivasa Rao and he approached the Hon'ble High Court and filed a writ and obtained interim orders not to terminate his services so he is continuing in service whereas the petitioner's services were terminated w.e.f. 30-4-99 without assigning any reasons on the ground that the respondents have stopped screening of movies in the Samudrika Naval Auditorium and also the non-public fund.

(3) It is the further case of the workman the Samudrika Auditorium is not closed and that the management is vindictive because the union filed a case under Minimum Wages Act. Hence the workman is entitled for reinstatement with back wages and continuity of service.

(4) The respondents 1 and 2 opposed this application on the ground that Samudrika Naval Auditorium is a lecture-cum-assembly hall placed under the Administration of the second respondent and it is used for the purpose of screening of training films for the officers and the sailors, giving lectures by senior defence officer, dignitaries, VIPs for conducting symposia and cultural programmes by Naval personnel etc. and the hall was also used for screening of movies once of a while, for entertainment of officers, sailors and their families who are working in a very stress atmosphere. To meet certain urgent requirements, casual workers like the petitioner and come others were engaged locally and they were paid honorarium as approved by the authorities of the second respondent organisation. The wages to casual labourers were made from the Non-public fund of the second respondent unit but not from the Government fund, the services of these casual workers are only on need basis and it will not come under the purview of Minimum Wages Act. It is true that the Union filed M.W. 104/95 and it was allowed in favour of the workman and against which the respondent have filed W.P. No. 15864/97 in the Hon'ble High Court of A.P., Hyderabad and the Honourable Court has granted stay Orders against the order of the Labour Commissioner and directed to deposit Rs. 36,129 and the main writ is pending. As per the directions of the High Court, the respondent have to deposit an amount of Rs. 36,129 on 18-5-99.

(5) It is further submitted that Naval Auditorium is exclusively meant for officers and sailors for lecture

cum assembly demonstration by senior defence officers, seminars, presentations and cultural programmes by Naval Personnel etc. Due to the advent of cable TV the Samudrika Naval Auditorium has been incurring losses due to recurring the losses and the unavailability of the Samudrika Non-Public Fund, the screening of moving for the entertainment of troops has been stopped and the non-public fund is closed. Hence the petitioner's services were stopped by giving one month's notice and one month's honorarium in lieu of the notice. The termination or disengagement of the casual employees was only due to unavailability of the work. Therefore, the provisions of I. D. Act has no application. The screening of the movies in Samudrika has been completely stopped and there is no intention of restarting the screening of movies in the auditorium. The workman was engaged on casual basis for a specific purpose and on completion of job, his services are to be discontinued and there was no need for the services. Hence the petition is liable to be dismissed.

(6) The workman is examined as WW1 and the General Secretary of the union is examined as WW2 and go marked Exs. W1 to W5. On behalf of the management, the legal officer for commanding officer, Naval Command, who was maintaining the auditorium from March, 1999 is examined as MW1 and through him Exs. M1 to M10 are marked.

(7) Heard both sides.

(8) The point that arises for consideration in this application is : Whether the petitioner is entitled for reinstatement with back wages ?

(9) The counsel appearing for the workman contends that the petitioner was appointed as Safaiwala on 1-10-1992 and he was paid 683 per month and that he worked continuously till his services are terminated w.c.f. 30th April, 1999. He was serving as Safaiwala in the Samudrika Auditorium maintained by Respondents 1 and 2 and his services were terminated because the workers union filed a case against the respondent under the Minimum Wages Act and hence the management vindictively terminated the services of the petitioner. These facts are stated by both the workman as well as the General Secretary of the workers union as WWs 1 and 2. It is also contended by the workman that the workers have raised a dispute before the Asstt. Commissioner of Labour (Central) whole efforts were failed and he advised the union to approach this Tribunal. It is also the admitted case of the workman that there is no appointment order in writing the General Secretary Srinivasan has got an appointment order which is also marked as Ex. M1. However, the petitioner was served with a termination order which is also marked as Ex. 9 and the termination notice is marked as Ex. M7.

(10) The counsel appearing for the management contends that Samudrika Auditorium is mainly meant for the lectures, seminars, meetings to be organised by the defence personnel screening of films for the entertainment of the officers, sailors and children and their family members and the services of the petitioner was engaged only for the screening of the films on honorarium basis by paying some honorarium to the workers from the non public funds, Exs. M3 to 5

are the balance sheets and the audit reports for the year ending 31st July, 1998, 31st June, 2000 and 30th April, 1997. The wages are being paid to the petitioner from the non-public fund and it has no connection with the Navy nor with the Government and the auditorium screening is now given to Sai Agencies on contract basis from 1st October, 1997 as per Ex. M6. The services of the workman are terminated on the basis of the letter received from the Flag Officer Command-in-Chief which is marked as Ex. M8 under which it is requested that all the employees working on the honorarium basis except WW2 are to be terminated. As per that letter, the administrative officer of the Auditorium in charge terminated the services of the petitioner by issuing the termination orders to the petitioner. The counsel appearing for the management also admitted about the filing of the case under Minimum Wages Act by the workers union and their success and against which, the management filed a writ petition No. 15863/97 wherein an interim direction was given to deposit Rs. 34,729 and the same was deposited by the Bank Draft and Ex. M10 is the letter stating the said fact. So far as the dispute under Minimum Wages Act is admitted by both the parties. Now the short question for the determination is as to whether the petitioner's services are taken on casual basis and if so whether the termination of the petitioner's services is legal ?

(11) The evidence adduced by both the parties discloses that the wages are being paid to the workman from non-public fund which is being raised by the members of the Naval Officers, Sailors etc. and the services of the petitioner was taken only in the Auditorium for screening of the films on honorarium basis. No doubt, the petitioner has put in a continuous service of about 7 years and the termination of his services resulted due to the closure of the Auditorium for the purpose of screening of the movies. The main object of the Auditorium is to have the lectures and training programmes, seminars etc. by the defence personnel and the screening of films is a part of activity in the auditorium for the entertainment of the commanding officers, sailors and their families. Because of the incurring of losses in the non-public fund and the advent of cable T.Vs, the management was constrained to close the screening of the films in the auditorium. However, the workman complained that it is a vindictive attitude of the management because they approached the authorities under the Minimum Wages Act. The case of the management is that paucity of funds from the non-public fund for the maintenance of the auditorium and secondly due to the advent of the cable TV, the screening of films in the Samudrika Auditorium is discontinued. Therefore, the services of the petitioner is no longer required. Thus, under the circumstances, the claim of the petitioner that he shall be continued in the same post in which he was employed is to be considered.

(12) Under the circumstances stated above, I am inclined to take the aid of the decision rendered by his Lordship in G. Sudhakar and 98 others Vs. LIC of India reported in 1998 A.I.T 147=1998(6) A.L.D 527 wherein his Lordship was pleased to hold that two conditions are co-existent to grant the relief of regularisation or continuation of services : (1) Entry of an employee on temporary or adhoc basis

should be against an existing vacancy, (2) The appointment was made after going through the selection procedure laid down by the relevant recruitment rules. The above said decision was rendered by his Lordship by placing reliance on 4 Supreme Court decisions which are as follows :

- (1) 1996 (II) SCC 341 between Union of India Vs. Bisamber Dutt.
- (2) Ashwani Kumar Vs. State of Bihar 1997(2) SCC 1.
- (3) P. Ravindra Vs. Union Territory of Pondicherry 1997(1) SCC 350.
- (4) P. Ramakrishna Vs. State of Kerala 1996 (II) SCC 565.

(13) Herein this case the appointment of the petitioner is not in any existing vacancy nor his appointment is after going through the selection procedure laid down by any recruitment rules. In the present case, the appointments of the petitioner was only on adhoc basis, temporarily without following any statutory recruitment rules. On that ground itself the petitioner is not entitled to get any relief.

(14) Thus, here this is a case, where the termination of the services of disengagement of the petitioner is only on account of the closure of the screening of films in the auditorium. No doubt, WW1 has stated that after the termination of his services some are employed. But this fact was not pleaded and even otherwise there is no material on record to establish the said fact. Therefore, the evidence spoken to by him without any pleading has no basis.

(15) That apart, the management issued one month's notice and also paid one month's honorarium in lieu of notice, to the workman. Therefore, the termination or disengagement of the services of the petitioner is in accordance with Section 25F of the I.D. Act. Thus, in any view of the matter, I see no merits in this application.

(16) In the result, the petition is dismissed and Nil Award is passed. However, each party is directed to bear its own costs.

Dictated to steno transcribed by her given under my hand and seal of the court this the 1st day of June, 2001.

K. VEERAPU NAIDU, Presiding Officer

Appendix of Evidence

Witnesses Examined for Workman :

WW1 K. Siva Ram.

WW2 S. Srinivasa Rao.

Witnesses Examined for Management :

MW1 S. P. Mallick.

Documents marked for Workman :

Ex. W1 30-4-1999 Telegram addressed to Management by Sri S. Gangadhara Reddy. Advocate on behalf of the Union.

2948 GI/2001—19.

Ex. W2 05-1999 Letter addressed to Assistant Commissioner of Labour, Visakhapatnam by the Union.

Ex. W3 22-6-1999 Letter addressed to the Union by the ACL

Ex. W4 20-4-1997 Order in MW Case No. 104/95 before the authority U/Sec. 20 of Minimum Wages Act, 1948, Visakhapatnam.

Ex. W5 Telegram addressed to management by the High Court in WPMP No. 158/98 in WP No. 140/98.

Documents marked for Management :

Ex. M1 28-6-1986 Letter of appointment of Sri S. Srinivasa Rao (WW2).

Ex. M2 3-12-1992 Visakha General Order No. 33/93 Command Lecture-cum-Assembly Hall-Samudrika.

Ex. M3 Balance Sheet and audit report for the quarter ending 31st July, 1998.

Ex. M4 Balance Sheet and audit certificate for quarter ending 31st January, 2000.

Ex. M5 5-5-1997 Balance Sheet and audit report for the quarter ending 30th April, 1997.

Ex. M6 10-3-1999 Memorandum of Agreement for security cover.

Ex. M7 30-4-1999 Termination Order.

Ex. M8 29-4-1999 Letter addressed to R2 by R1.

Ex. M9 30-4-1999 Termination Order of the petitioner.

Ex. M10 17-5-1999 Letter addressed to Assistant Commissioner of Labour by the Management.

नई दिल्ली, 12 सितम्बर, 2001.

का.आ. 2683.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) को धारा 17 के अनुसरण में, केन्द्रीय सरकार द्वारा रिबर रिसर्च इंस्टीट्यूट ऑफ इंडिया के प्रबंधन के संबंध निरीक्षणों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण भुवनेश्वर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-9-2001 को प्राप्त हुआ था।

[संलग्न-42012/89/99-आई.आर. (डी.यू.)]

कुलदीप राय वर्मा, इसके अधिकारी

New Delhi, the 12th September, 2001.

S.O. 2683.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Rubber Research Institute of

India and their workman, which was received by the Central Government on 12-9-2001.

[No. L-42012/89/99-IR(DU)]

KULDIP RAI VERMA, Desk Officer

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
BHUBANESWAR**

PRESENT :

Shri S. K. Dhal, OSJS, (Sr. Branch),
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

Tr. Industrial Dispute Case No. 290/2001

Date of conclusion of hearing 3rd August, 2001

Date of Passing Award 3rd September, 2001

BETWEEN

The Management of the Officer-in-Charge,
Rubber Board of India,
(RRII), Kadlupal.

... 1st Party-Management.

AND

Their Workman, represented through the
President, Annapurnapur Rubber Board
Workers' Union, Kadlupal, P.O. Aluagharan,
Distt. Dhenkanal-759026 (Orissa) ... 2nd Party-
Union.

APPEARANCES :

Representative of the Management : For the 1st
Party-Management.

Shri Bipin Bihari Sahoo : For himself, 2nd Party-
Workman.

AWARD

The Government of India, in the Ministry of Labour, in exercise of powers conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), have referred the following dispute for adjudication vide their Order No. L-42012/089/99/IR(DU), dated 11-08-1999.

"Whether the action of the Management of the Rubber Research Institute of India, Dhenkanal, in terminating the services of Shri Bipin Bihari Sahoo is legal and justified? If not, to what relief the workman is entitled?"

2. After receipt of the copy of the reference both the parties have appeared. Instead of filing Claim Statement a petition has been filed on behalf of the workman that, actually the dispute was for non-payment of one day wage to Shri Bipin Bihari Sahoo for which reconciliation was made. As the reconciliation failed, the matter was referred to the Government for reference. But the reference has been made regarding terminating the services of Shri Bipin Bihari Sahoo. In the said petition it was stated that the

services of Shri Bipin Bihari Sahoo has not been terminated. So he has prayed to pass no disputed award.

3. The Union has filed the copy of the report of the Asstt. Labour Commissioner, Bhubaneswar before whom re-conciliation stated to have been made. It discloses that, the dispute was for non-payment of one day wage. But the reference has been made "whether the action of the Management in terminating the services of Shri Bipin Bihari Sahoo is legal and justified?" When the Union has come forward to say that the services of Shri Bipin Bihari Sahoo has not been terminated, there is no scope for the Tribunal to answer whether the said termination is legal and justified.

4. Hence, the reference is answered accordingly.

Dictated and corrected by me.

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 12 सितम्बर, 2001

का. आ. 2684.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पोस्टल प्रिंटिंग प्रेस के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, भुवनेश्वर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-9-2001 को प्राप्त हुआ था।

[सं. एल-40012/163/99-आई.आर. (डी.यू.)]
कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 12th September, 2001

S.O. 2684.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Postal Printing Press and their workman, which was received by the Central Government on 12-9-2001.

[No. L-40012/163/99-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT
BHUBANESWAR**

PRESENT :

Shri S. K. Dhal, OSJS, (Sr. Branch),
Presiding Officer, C.G.I.T.-cum-Labour Court,
Bhubaneswar.

Tr. Industrial Dispute Case No. 293/2001

Date of concluding of the hearing 20th Aug. 2001

Date of Passing Award 6th Sept. 2001

BETWEEN

The Management of The Manager,
Postal Printing Press, Gadagopinathpur,
Rasulgarh, Bhubaneswar, Orissa.

1st Party-
Management.

AND

Their Workman, Shri Subash Das,
At. Po. Balasampur, Talagarh,
Via., Jenapur, Distt. Jajpur, Orissa,

2nd Party-
Workman

APPEARANCES :

Shri Bishnu Charan Samal, Office
Assistant (Legal Cases) . . For the 1st Party-
Management.

None. . . For the 2nd Party
Workman.

AWARD

The Government of India, in the Ministry of Labour in exercise of Powers conferred by Clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-40012/163/99/IR(DU), dated 13-9-1999:—

“Whether the action of the Management, Postal Printing Press, Bhubaneswar, in not reinstating the disputant, Shri Subash Das in service is legal and justified? If not, what relief he is entitled to?”

2. The dispute has been raised at the instance of the 2nd Party-Workman. So the onus lies on him to establish his case by producing either oral or documentary evidence. After he produces materials the 1st Party-Management could challenge the same either by producing oral or documentary evidence. But in this case the Workman has not filed his Claim Statement in support of his case. He has not come to the witness box to give his oral evidence or to exhibit documents in support of his stand that the action taken by the 1st Party-Management is illegal and unjustified.

3. In the circumstances above, when no materials have been produced on behalf of the 2nd Party-workman, it can be concluded that the Workman has got no grievance against the action taken by the Management and he has got no cause of action. In other words the action taken by the 1 Party-Management is justified and the 2nd Party-Workman is not entitled for any relief.

4. Reference is answered accordingly.

S. K. DHAL, Presiding Officer

नई दिल्ली, 12 सितम्बर, 2001

का. प्र. 2685.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय

सरकार कमांडेंट, 413, पी.ई.टी., पी.एल., ए.एस.सी. सी/ओ 99 ए.पी.ओ. के प्रबंधन के सबब नियोजकों और उनके कर्मकारों के बीच, अनुबंध में दिव्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण गुवाहाटी के पचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-9-2001 को प्राप्त हुआ था।

[स एल-14012/24/99-आई.प्र. (डी.यू.)]

[स एल-14012/25/99-आई.प्र. (डी.यू.)]

[स एल-14012/26/99-आई.प्र. (डी.यू.)]

[स एल-14012/27/99-आई.प्र. (डी.यू.)]

[स एल-14012/28/99-आई.प्र. (डी.यू.)]

[स एल-14012/29/99-आई.प्र. (डी.यू.)]

कुलदीप राय वर्मा, डेस्क अधिकारी

New Delhi, the 12th September, 2001

S.O. 2685.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal-cum-Labour Court, Guwahati, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Commandant, 413, PET, PL, ASC C/o 99 APO and their workman, which was received by the Central Government on 12-9-2001.

[No. L-14012/24/99-IR(DU),

No. L-14012/25/99-IR(DU),

No. L-14012/26/99-IR(DU),

No. L-14012/27/99-IR(DU),

No. L-14012/28/99-IR(DU),

No. L-14012/29/99-IR(DU)]

KULDIP RAI VERMA, Desk Officer

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL, GUWAHATI,
ASSAM

Reference No. 1(C)/2000, 23(C)/99, 24(C)/99,
25(C)/99, 26(C)/99 & 28(C)/99

PRESENT :

Shri K. Sarma, LL.B., Presiding Officer, Industrial
Tribunal, Guwahati.

In the matter of an Industrial Dispute between :
The Management of

The Commandant, 413, PET, PL, ASC,
C/o 99 APO.

Vs.

Their workmen,

Shri Amarjit Prasad,

Shri Dharam Rai,

Shri Ranjit Kumar Rai,
Shri Ram Naresh Rai,
Shri Suresh Ram, and
Shri Jasbir Rai.

Date of Award : 7-8-2001.

AWARD

By this common award, I propose to dispose these 6 nos. of Industrial Dispute referred to by the Government of India, Ministry of Labour under section 10 of the Industrial Dispute Act vide order No. L-14012/25/99-IR(DU) dated 25-8-99, L-14012/28/99-IR(DU) dated 3-8-99, L-14012/29/99-IR(DU), dated 3-8-99, L-14012/26/99-IR(DU) dated 3-8-99, L-14012/27/99-IR(DU), dated 3-8-99 and L-14012/24/99-IR(DU) dated 3-8-99 to adjudicate the dispute arising between common management in all the references namely, the Commandant 413 PET, PL, ASC, C/o 99 APO and their workmen Amarjit Prasad in reference case No. 1(C)/2000, Shri Dharam Rai in reference case No. 23(C)/99, Shri Ranjit Kumar Rai in reference Case No. 24(C)/99, Shri Ram Naresh Rai in reference Case No. 25(C)/99, Shri Suresh Ram in reference Case No. 26(C)/99 and Shri Jasbir Rai in reference Case No. 28(C)/99 out of termination of their services by the management with effect from 1-7-98. The referring authority has framed the separate, but common issues in each of the references enabling this tribunal to decide the matter of controversy :

Issues :

In reference case No. 1(C)/2000 :

“Whether the action of the Commandant, 413, PET, PL, ASC C/o 99 APO in terminating the services of Sh. Amarjit Prasad is legal and justified? If not, to what relief the workman is entitled?”

In reference Case No. 23(C)/99 :

“Whether the action of the Commandant, 413, PET, PL, ASC C/o 99 APO in terminating the services of Sh. Dharam Raj is legal and justified? If not, to what relief the workman is entitled?”

In reference Case No. 24(C)/99 :

“Whether the action of the Commandant, 413, PET, PL, ASC C/o 99 APO in terminating the services of Sh. Ranjit Kumar Rai is legal and justified? If not, to what relief the workman is entitled?”

In reference Case No. 25(C)/99 :

“Whether the action of the Commandant, 413, PET, PL, ASC C/o 99 APO in terminating the service of Sh. Ram Naresh Rai is legal and justified? If not, to what relief the workman is entitled?”

In reference Case No. 26(C)/99 :

“Whether the action of the Commandant, 413, PET, PL, ASC C/o 99 APO in terminating

the services of Sh. Suresh Ram is legal & justified? If not, to what relief the workman is entitled?”

In reference Case No. 28(C)/99 :

“Whether the action of the management of the Commandant, 413, PET, PL, ASC C/o 99 APO in terminating the services of Sh. Jasbir Rai, Pathar Quarry is legal and justified? If not, to what relief the workman is entitled?”

On receipt of references this tribunal has registered separate cases in the name of each of the workman against the same management and issued notices to both of them calling upon them to appear before the tribunal and to file written statement, addl. written statement and documents if any, in response to which both the parties have appeared and filed their written statement, addl. written statements and documents. The workmen of reference Case No. 1(C)/2000 adduced his own evidence in support of his own case and also for the workman of reference Case No. 26(C)/99 and 28(C)/99 as the entire facts of these cases are similar in nature. The workmen of reference case No. 24(C)/99, 23(C)/99 and 26(C)/99 have adduced their own evidence individually in support of their own case separately. Management has neither adduced any evidence from their side nor has cross-examined the workmen.

After completion of evidence, arguments advanced by the learned advocate for the both the parties are heard. The learned advocate for the workmen on the other hand, apart from oral argument, has submitted a lengthy written arguments.

After hearing the argument, I have gone through the entire materials on record including pleading of the parties and oral evidence adduced thereon. The workmen's case is that all the 6 workmen involved in 6 different referenced as mentioned above have been engaged by the management as Mazdoor at 413 Petroleum Platoon in the month of October, 1996. Before their engagement the management has issued requisition to the local employment exchange calling names of the candidates for engaging Mazdoor in their 413 Petroleum Platoon, in response to which the local employment exchange had sponsored the names of these workmen alongwith other who have been duly selected by the management after holding interview by a Board constituted by the management. All the workmen were engaged as casual workers on daily wage basis. The workmen have stated in their written statements that function of the platoon is to supply petroleum product like Kerosene, diesel, grease, lubricant items and hygienic Chemicals like bleaching powder etc to all military units in North Eastern region through out the year. These items are collected from refinery and other sources and stored in a godown maintained by the platoon. For the purpose of loading and unloading of goods, the workmen were engaged by the management and their functions in that way continue through out the year. Although the management is a defence unit, but the function carried out by the petroleum platoon where workmen are working is a separate unit under the control of the management and is carrying out such activities through out the year. The workmen

after engagement as Mazdoor after due selection process have continued to work for a period of 2 years completing 240 days in a year, but they were suddenly terminated from service by the management on and from 1-7-98 without serving termination letter nor issuing any notice to show cause. It is further mentioned that during the period of 2 years, the workmen have been requesting the management to regularise their service as their works are perennial in nature. Though management has verbally assured them, but not regularised. Managements have also issued gate pass to the workmen for entering into the prohibited area for carrying out their activities. It is further contended that all the workmen completed 240 days of work in a year and as such before their termination, the managements have to comply with the provision of law laid down the Section 25(F) of the I.D. Act and non-compliance of this provision of law has vitiated the termination process and they need to be reinstated immediately. As the management did not reinstate them after termination even after repeated requests, the workmen having no other alternative, have raised the industrial dispute. Although the labour authority has tried to settle the matter amicably in conciliation, but due to adamant attitude on the part of the management, the matter could not be settled and thereafter the labour authority have submitted failure report to the appropriate Government who have ultimately made these references to this tribunal.

In the written statement, the first and foremost contention of the management is that management is not a Industry within a meaning of Industrial Dispute Act and hence industrial dispute raised by the workmen is not maintainable. The management further contention inter alia that the workmen were engaged for a specific period to meet the exigency of the work and when the work exigency is over, the workmen were released from the service. It is further contended that all the workmen have been engaged on daily wages basis as casual labour and none of them has completed 240 days of workmen in a year as contended by the workmen and hence for their termination, no formality is to be observed. It is further contended that the workmen have never accrued the status of the temporary workmen under the provision of Industrial Dispute Act and they are not entitled to any relief in this reference.

But it is to be noted that the management has not adduced their evidence nor cross-examined the workmen witness to establish their contention raised in the pleading and to discredit the contention raised in the written statement by the workmen or in their deposition and hence contention raised by the workmen stands un rebuttable.

The first and foremost contention raised by the management is that the management being a defence unit is not a industry. It is true that the management is represented by Commandant 413 PET, PL ASC, C/o 99 APO which is a defence unit, but the function of this unit is to supply Petroleum Products etc. to all Military Unit of the North Eastern Region. Petroleum Products etc. in the control and supervi-

sion of the management is a separate function from the defence function performed by the defence personnel and the function of the workmen in the petroleum products is to supply petroleum products throughout the year by a systematic activity with the organised help of the workmen for the distribution of goods and as such it is substantially severable from the other unit of the Army and as such it is a complete separate unit. These being so the petroleum platoon is covered by the definition of industry defined under section 2(J) of the I.D. Act as laid down by the Apex Court in Bangalore Water Supply & Sewerage Board Vs. A. Rajappa, (1978) 2 SCC 213. Moreover, applying the ratio of the above decision the Hon'ble High Court Madhya Pradesh in [1995 I.L.J Vol. 1. 994 (M.P.)] held that ordinance depot of army is an Industry within the fold of 2(J) of the I.D. Act. The establishment being an industry under 2(J) of the I.D. Act and the workmen being covered by definition 2(s) of the Act, this reference is a valid reference and the present dispute being an Industrial Dispute has been correctly referred by the appropriate Government to this tribunal for adjudication and reference is quite maintainable in the law and this tribunal has jurisdiction to deal with the references.

The next point to be decided in this reference is whether the termination of the workmen are justified or not. It is a settled position of law laid down by Apex Court that if the workmen complete 240 days of work in a 12 calendar months equal on only to service for a year but it is to be deemed to continuous service even if interrupted. This position of law has been laid down by the Apex Court in Digwadih Colliery Vs. Workmen, AIR 1966 SC P. 75. It is further to be noted that to satisfy this test under section 25(B) of the I.D. Act, the workmen need not show that he has to work during all the period he has been in service of the employer for 240 days of work in a year Ram Krishna Ram Nath Vs. P.O. Labour Court, 1970 SCC Vol. III P. 67. This aspect of law shows that if a workmen works for 240 days in a year he shall be in continuous service under the employer for the purpose of getting benefit of Section 25(F) of I.D. Act in Mohan Lal Vs. Bharat Electricals, 1981 SCC Vol. III P. 225, the Apex Court has held that the retrenchment without complying Section 25(F) of the I.D. Act would be void ab initio. Such action entitled to workmen to a declaration for continuous of service with back wages. In Cammon's India Ltd Vs. Niranjan Das, AIR 1984 SC P. 500 the Apex Court has held that retrenchment without complying of provision of Section 25(F) of the I.D. Act is illegal and the workmen is entitled to reinstatement with full back wages.

Keeping in view the catena of above decisions I find that in each of the references the workmen has completed 240 days of work in a year till the date of their termination in the month of July, 1998. Moreover, they have been engaged by the management after due selection process. The nature of work performed by the management as revealed from their evidence, I find that these are continuing for all the year round and hence perennial in nature. No reason

has been shown by the management as to their termination nor provision of law laid down in Section 25(F) of the I.D. Act which requires that before termination of the workmen who has completed 240 days of work in a year one month notice alongwith one month wages has to be served upon them, has been complied with. Termination of workmen is not covered by the excluded categories mentioning Section 2(oo) of the I.D. Act would amount to retrenchment and they are liable to reinstatement. As the workmen were not paid retrenchment benefit under section 25(F) of the I.D. Act, they are entitled to reinstatement.

The management has not rebutted the case of the workmen by adducing their evidence nor cross-examining the workmen witness as already mentioned above. On the other hand, the case of the workmen has been protected by Section 25(F) of the I.D. Act and the principle of law laid down in different case law as mentioned above has also supported their cases and hence I have no hesitation to answer the references in favour of the workmen.

In view of above discussions all the 6 references are answered in favour of the workmen holding that the termination of the workmen from their service is not justified and they are entitled to reinstatement. Accordingly, all the 6 workmen involved in 6 references are directed to be reinstated in their work within a month from the date of this award in the capacity from where they are terminated. Prepare an award accordingly.

K. SARMA, Presiding Officer

नई दिल्ली, 13 सितम्बर, 2001

का.आ. 2686.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ.सी.आई. के प्रसूतंत्र के संबद्ध निोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जयपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-9-2001 को प्राप्त हुआ था।

[सं एन-22012/363/97-आई.आर. (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 13th September, 2001

S.O. 2686.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court Jaipur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of FCI and their workman, which was received by the Central Government on 12-9-2001.

[No. L-22012/363/97-IR(C-II)]

N. P. KESAVAN, Desk Officer

अनुबंध

केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर।
आदेश संख्या :—एन/22012/363/97/आई.आर. (सी.एम-II)
30-6-98

प्रकरण संख्या :—सी.जी.आई.टी./बी-26/98

शंकरलाल पुत्र श्री राजाराम निवासी हनुमानगढ़ टाऊन, जिला हनुमानगढ़ राजस्थान

—प्रार्थी

बनाम

वरिष्ठ क्षेत्रीय प्रबन्धक, भारतीय खाद्य निगम, क्षेत्रीय कार्यालय, जयपुर

—प्रार्थी

उपस्थित :—

प्रार्थी की ओर से

कोई नहीं।

अप्रार्थी की ओर से

श्री अजित प्रकाश गुप्ता।

पंचाट दिनांक

30-7-2001

पंचाट

केन्द्रीय सरकार के द्वारा उक्त आदेश के जरिए निम्न विवाद औद्योगिक विवाद अधिनियम, 1947 (जिसे बाद में अधिनियम, 1947 कहा गया है।) की धारा 10 की उपधारा (1) के खण्ड 3 के प्रावधानों के अन्तर्गत न्याय-निर्णय हेतु निर्देशित किया गया :—

“Whether the action of the management of FCI, Jaipur is justified in terminating the services of workman Sh. Shankerlal S/o Sh] Raja Ram w.e.f. 30-9-91 and employing junior workmen without giving any opportunity of employment in violation of Section 25-H of the I.D. Act, 1947? If not, to what relief is the workman entitled and from which date?”

उक्त निर्देश आदेश दिनांक 23-7-98 को प्राप्त हुआ। निर्देश आदेश के अनुसार शंकरलाल कर्मकार को निर्देश आदेश की प्राप्ति के अन्दर 15 दिवस में क्वेम प्रस्तुत करना था, परन्तु क्वेम प्रस्तुत नहीं किया। जिस पर उसे नोटिस निर्देश आदेश में वर्णित पते पर भेजा गया, जो इस पृष्ठांकन के साथ वापस आया कि कर्मकार शंकरलाल का पता नहीं चला। उसके पते के बारे में सहायक श्रम आयुक्त, जयपुर व डेस्क अधिकारी से जानकारी चाही गई तो उसका पता वही बताया गया जो कि निर्देश आदेश में वर्णित है। निर्देश आदेश में वर्णित पते पर कर्मकार शंकरलाल को रजिस्टर्ड ए.डी. नोटिस भेजा गया जो इस मार्क के साथ वापस आया कि पता अधूरा है। इस प्रकार प्रार्थी की ओर से न तो कोई उपस्थित आया व न ही कोई क्वेम पेश किया गया। अतः विवाद रहित पंचाट पारित किया जाता है।

पंचाट की प्रतिलिपि केन्द्रीय सरकार को अधिनियम, 1947 की धारा 17 की उपधारा (1) के अन्तर्गत प्रकाशनार्थ प्रेषित की जाएगी।

ह०/- पठनीय

पीठासीन अधिकारी

नई दिल्ली, 13 सितम्बर, 2001

का.प्र. 2687:— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एम.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय भुवनेश्वर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-9-2001 को प्राप्त हुआ था।

[सं.एल-22012/386/96-आई आर (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 13th September, 2001

S.O. 2687.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of MCL and their workman, which was received by the Central Government on 12th September, 2001.

[No. L-22012/386/96-IR(C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
BHUBANESWAR

PRESENT :

Shri S. K. Dhal, OSJS. (Sr. Branch),
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

Tr. Industrial Dispute Case No. 134/2001
Date of conclusion of hearing 2-8-2001

Date of Passing Award 31st August 2001

BETWEEN

The Management of The Project Officer,
Talcher Colliery of MCL, P.O. Dera Colliery,
Dist. Angul, Orissa. ... 1st Party-Management.

AND

Their Workman, Shri Dhoba Mahapatra,
S/o Bita Mohapatra, Vill. Kandhal,
Dist. Angul, Orissa. ... 2nd Party-Workman.

APPEARANCES :

Shri A. K. Parija, Personal Maager,
Talcher Area, M.C.L. ... For the 1st Party-
Management.

None. ... For the 2nd Party-
Workman.

AWARD

The Government of India in the Ministry of Labour, in exercise of Powers conferred by Clause (d) of sub-section (1) and sub-section 10 of the Industrial Disputes Act, 1947 (14 of 1947), have referred the following dispute for adjudication vide

their Order No. L-22012/386/96-IR(C-II), dated 30-9-1997:—

“Whether the action of the Management of Talcher Colliery of M.C.L. in dismissing Shri Dhoba Mahapatra, Wagon Loader, from service is legal and justified? If not, to what relief the workman is entitled and from which date?”

2. The case of the Workman as narrated in his Claim Statement is as follows :—

He joined at Talcher Colliery on dated 21-2-1975 as a Wagon Loader. He was dismissed in service from 27-8-90. It is alleged that the Management has imposed the punishment of dismissal for his habitual absence. According to the Workman he became ill from 1986 frequently due to hard loading work and so he was compelled to remain absent. He intimated this fact to the Management and obtained sick leave. For his habitual absence in duty an enquiry was stated against him. The prayer of the workman to defend his case by one of his co-worker was refused. It has been further alleged that the enquiry was not conducted with proper procedure which violates the principles of natural justice. So according to the workman the dismissal order passed against him is unjustified, malafide and illegal.

3. The Management has filed their Written Statement. They have pleaded that the delinquent-Workman was in habit of remaining absent un-authorisedly in duty without submitting any leave application. He was warned several times and was asked to amend his conduct. But he did not improve his conduct. He remained absent for 54 days in the year 1986, 58 days in the year 1987, 37 days in the year 1988, 30 days in the year 1989. The Management has issued warning letter to him on 18-1-89 and 28-2-89. In spite of such warning he remained absent from duty. Order was passed to start a disciplinary proceeding against him. Accordingly Enquiry Officer was appointed who issued notice to attend the enquiry. Two witnesses were examined on behalf of the Department but the delinquent workman did not adduce any evidence though he was given full opportunity to produce his witnesses. The Enquiry Officer after completion of the enquiry has submitted a report and the disciplinary authority after going through the enquiry report and the relevant documents passed an order of dismissal. According to the Management the order of dismissal, dtd. 25-7-90 is legal and justified.

4. On the pleading of the above parties the following issues have been settled.

I. Whether the action of the Management of Talcher Colliery of M.C.L. in Dismissing Shri Dhoba Mahapatra, Wagon Loader, from service is Legal and justified?

II. If not, to what relief is the workmen entitled and from which date?

FINDINGS

ISSUE NO. I & II

5. It appears that after filing of the Claim Statement the workman has remained absent and has not taken part in the proceeding. The dispute has been raised at his instance. He has alleged that, the enquiry stated against him was not conducted properly and fairly. His further allegation was that he was not given opportunity in the domestic enquiry. This averment has been denied by the Management. So in that case the onus lies on the workman to support his case by adducing oral or documentary evidence. But he has withdrawn himself from the witness box and has not exhibited any piece of documents in support of his case. So in absence of any evidence on behalf of the workman it cannot be said that, enquiry made against him was not justified and illegal. On the other hand it can be concluded that the action of the Management by passing an order of dismissal against the delinquent workman is legal and justified. In that case the workman is not entitled for any relief. Both the issues are answered in favour of the Management.

6. Reference is answered accordingly.

S. K. DHAL, Presiding Officer

नई दिल्ली, 13 सितम्बर, 2001

का.आ. 2688 : औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार एम.सी.एल. के प्रबंधन के संवर्धनियों और उनके कर्मचारों के बीच, अन्वय में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय भुवनेश्वर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-9-2001 को प्राप्त हुआ था।

[सं.एल-22012/531/99-आई आर (सी-II)]
एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 13th September, 2001

S.O. 2688.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of MCL and their workman, which was received by the Central Government on 12-9-2001.

[No. I-22012/531/99-IR(C-II)]
N. P. KESAVAN, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT
BHUBANESWAR

PRESENT :

Shri S. K. Dhal, OSJS,
(Sr. Branch),
Presiding Officer,
C.G.I.T.-cum-Labour Court,
Bhubaneswar.

Industrial Dispute Case No. 13/2000

Date of Conclusion of Hearing 5th Sept. 2001

Date of Passing Award--5th Sept., 2001

BETWEEN

The Project Officer,
Ananta OCP,
Ananta OCP of MCL,
P.O. Dera Colliery,
Dist. Angul-759103,
Orissa. 1st Party-Management

AND

Their Workmen, represented through
The General Secretary,
Ananta Colliery Labour Union,
At P.O. Balanda,
Dist. Angul,
Orissa. 2nd Party-Union

APPEARANCES :

Shri S. S. Das, For the 1st Party-
MCL, Jagannath Area. Management
Shri Sarat Chandra Pati, For the 2nd
General Secretary. Party-Union

AWARD

The Government of India in the Ministry of Labour, in exercise of Powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. I-22012/531/99-IR(CM-II), dated 06-07-2000 :—

"Whether the action of the Management of by not placing and paying wages to 9 Dumper Operators (first enclosed) in Grade-II is justified? If not, what relief the Dumper Operators are entitled?"

2. Before hearing is taken up Both the parties have filed the Memorandum of Settlement and have submitted to pass Award as per the terms of the settlement. Both the parties were asked whether they admit the terms of the settlement? The representatives of both the parties admitted to have signed the Memorandum of Settlement and they admit the contents to be true.

3. Hence, the Award is passed as per the terms of the Memorandum of Settlement. The Memorandum of Settlement would form the part of the Award.

4. Reference is answered accordingly.

S. K. DHAL, Presiding Officer

FORM-H

(See Rule 58)

MEMORANDUM OF SETTLEMENT

Representing Management :

Sri Narendra Kumar Sinha, Dy. Chief Personnel Manager, Jagannath Area.

Representing Workmen :

- (1) Sri Ananta Charan Patra, General Secretary, O.C.M.L.F. (HMS).
- (2) Sri Sarat Chandra Pati, General Secretary, Ananta Colliery Labour Union.
- (3) Sri Shyam Sunder Satpathy, Ananta Colliery Labour Union.

Short Recital of the case.

The Ananta Colliery Labour Union has raised an Industrial Dispute before the Asstt. Labour Commissioner (Central), Bhubaneswar stating inter-alia that the Ananta Colliery Management has not followed the provisions of the Cadre Scheme as provided in NCWA while regulating the career avenue/designating Sri Mukund Maharana & 8 others in appropriate grades/category commensurate with the work performed by them during the relevant period. The matter was subsequently referred by the Central Government to the CGIT, Bhubaneswar for adjudication on following terms :—

“Whether the action of the management by not placing and paying wages to 9 Dumper Operators in Gr. II is justified? If not, to what relief in Dumper Operators are entitled?”

Besides some minor issues the Union has emphasized the point that the Dumper Operators placed in Gr. III (i.e. Excavation Gr. D) were regularly deployed to operate the Dumpers of 35 Tonnes and above capacity and by virtue of their doing so they are entitled to be posted in the Gr. II (i.e. Excavation Gr. C).

The matter was further discussed with the Union and finally it was resolved to settle the dispute out of Court/Tribunal in the following terms :—

Terms of Settlement

- (1) That the Dumper Operators namely S/Sri Mukunda Maharana, Biswanath Behera Durga Prasad Sahoo, Lalit Naik, Balakrishna Garnaik, Purna Chandra Pradhan, Anjan Satpathy, Tripura Kumar Behera and Akshya Kumar Samal will be paid the difference of wages of Grade-II (Excavation Group-C) from the date of their placement in Grade-III (i.e. Excavation Group-D) till the date of their promotion to Grade-II (Excavation Group-C).
- (2) That the above difference of wages as mentioned in Para-I will be admissible and paid for the actual days of their operating the dumpers of 35 Tonnes and above.

(3) That this will be a full and final settlement of the matter and no dispute in this connection will be raised by the Union and workmen involved in any other forum.

(4) That both the parties agreed to file a petition before the Central Government Industrial Tribunal-cum-Labour Court, Bhubaneswar stating that the dispute pending under adjudication has been amicably settled between the parties and there is no dispute whatsoever in this connection and the Tribunal/Court may be please to pass a No Dispute Award to this effect.

Management Representative :

Signature : (Sd/-)

Name : Sri Narendra Kumar Sinha

Designation : Dy. Chief Personnel Manager, Jagannath Area.

Witness : (Sd/-)

(Y. Hara Kumar)

Personnel Manager.

Witness : (Sd/-)

Union Representative :

(1) Signature : (Sd/-)

Name : Sri Ananta Charan Patra

Designation : General Secretary, OCMLF.

(2) Signature : (Sd/-)

Name : Sri Sarat Chandra Pati,

Designation : General Secretary, ACLU.

(3) Signature : (Sd/-)

Name : Sri Shyam Sunder Satpathy.

Ananta Colliery Labour Union.

Witness : (Sd/-)

Witness : Anjan Satpathy.

नई दिल्ली, 13 सितम्बर, 2001

का.प्र. 2689 :— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एक.पी.आई. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सचिव के पंचट को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-9-2001 को प्राप्त हुआ था।

[सं. एन-22012/570/99-आई आर (सी-II)]

एन.पी. केशवन, डेस्क अधिकारी

New Delhi, the 13th September, 2001

S.O. 2689.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal/Labour Court Lucknow, as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of FCI and their workman, which

was received by the Central Government on 12-9-2001.

[L-22012/570/99-IR(C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

Presiding Officer.—Rudresh Kumar,
ADJUDICATION

I.D. No. 55/2000

Ref. No. L-22012/570/99/IR(CM-II) Dt. 27-7-2000

BETWEEN :

The State Secretary
Bhartiya Khadya Nigam Karmachari Sangh
5-6, Habibullah Estate
Hazratganj
Lucknow-226001.

(In the matter of Vishesh Chand)

AND

The Sr. Regional Manager
Food Corporation of India
5-6, Habibullah Estate
Hazratganj
Lucknow-226001.

AWARD

By reference No. L-22012/570/99/IR(CM-H) dated 27-7-2000, the Central Government in the Ministry of Labour, in exercise of powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), made over this industrial dispute between the State Secretary, Bhartiya Khadya Nigam Karmachari Sangh, Lucknow espousing cause of Vishesh Chand and the Sr. Regional Manager, Food Corporation of India, Lucknow for adjudication.

The reference is produced as under :

"Whether the action of the management in not giving full wages to Sh. Vishesh Chand over and above the suspension Allowance during the period of suspension from 5-4-95 to 21-8-96 is legal and justified? If not, to what relief the workman is entitled?"

The workman, Vishesh Chand, Asstt. Grade-II (Depot) was suspended vide order No. Vig. 4(870)/RO, LKO/BLY/95/53 dated 5-4-1995 pending enquiry against him. However, the said order was revoked later, by letter No. Vig. 4(870)/RO, LKO/BLY/95/836 dated 21-8-96. The disciplinary enquiry against the workman was completed and the competent authority, thereafter by Order No. Vig. 4(870)/RO, LKO/95/1047 dated 30-9-97 imposed penalty as under :

"Now, therefore, the undersigned in exercise of powers conferred under Regulation 56 of

FCI (Staff) Regulations, 1971, imposes the penalty of reversion in rank from Asstt. Grade-II(D) to Asstt. Grade III (Depot) upon Shri Vishesh Chand for a period of 5 (Five) years with immediate effect. On reversion, he will draw the scale which he was drawing prior to his promotion as Asstt. Grade II (Depot). He will not draw any increment during penalty period. After expiry of the prior of reversion he will be reinstated as Asstt. Grade II (Depot) at the stage from where he was reverted".

The Disciplinary Authority did not pass any order about wages of the suspension period at that time, and later by letter No. Vig. 4(870)/RO, LKO/95/1712 dated 7-6-99, in exercise of powers conferred under Regulation 66 of FCI (Staff) Regulations, 1971 regularised period of suspension as period not spent on duty and ordered further no entitlement to pay and allowances over and above paid as subsistence allowance during the period of suspension i.e. from 5-4-95 to 21-8-96.

In the present reference, the above said order dated 7-6-99 has been impugned by the workman, without disputing penalty order dated 30-9-97, which for all purposes is taken as final.

The learned authorised representative of the workman has taken two main grounds firstly, that the management was not competent to pass a second order dated 7-6-99 denying pay and allowances over and above the subsistence allowance as this order related to penalty passed on 30-9-97 and by passing this fresh order, the Sr. Regional Manager imposed double penalty for the same misconduct and secondly, the order dated 7-6-99 should have been passed along with the penalty order dated 30-9-97, since the Disciplinary Authority became functus officio, after passing the first order.

With view to appreciate above submissions of the workman, it is necessary to go through the provisions contained in the Regulation 66 of the FCI (Staff) Regulations, 1971.

66. Suspension

(3). When the suspension of an employee is held to be unjustified or not wholly justified or when an employee has been dismissed or suspended is reinstated, the disciplinary, appellate or reviewing authority, as the case may be, whose decision shall be final, may grant to him for the period of his absence from duty :

- (a) if he is honorably acquitted, the full pay and allowances other than conveyance allowance to which he would have been entitled if he had not been dismissed or suspended, less the subsistence grant;
- (b) if otherwise, such proportion of pay and allowances other than conveyance allowance as the disciplinary, appellate or reviewing authority may prescribe in a

case falling under clause (a), the period of absence from duty will be treated as a period spent on duty. In a case falling under clause (b) it will not be treated as a period spent on duty unless the disciplinary, appellate or reviewing authority, as the case may be, whose decision shall be final, so directs.

No order passed under this regulation shall have the effect of compelling any employee to refund any part of the subsistence grant paid to him.

Note.—Notwithstanding anything contained in the above Regulation, where an employee under suspension dies before the disciplinary or Court proceedings instituted against him are concluded, the period between the date of suspension and the date of death shall be treated as duty for all purposes and his family shall be paid the full pay and allowances for that period to which he would have been entitled, had he not been suspended, subject to adjustment in respect of subsistence allowance already paid.

In present case, the workman was not honorably acquitted and his case is covered by Regulation 66 (8) (b) FCI (Staff) Regulations, 1971. It is provided that in case of non-honorable acquittal, the suspension period will not be treated as a period spent on duty unless the Disciplinary Authority, appellate or reviewing authority, as the case may be, so directs. In the present case, exercising his authority under Regulation 66 (8) (b) FCI (Staff) Regulations, 1971, the disciplinary Authority treated suspension period as a period not spent on duty and denied wages over and above subsistence allowance. The Disciplinary Authority had no option but to treat suspension period as a period not spent on duty. Once suspension period was not treated as period not spent on duty, the workman became disentitled to the wages of the said period. Regulation 66 (8) (b) FCI (Staff) Regulations, 1971 does not require a notice to the workman to explain as why the wages over and above subsistence allowance be not denied because the denial of wages in such cases, are, normally inequal to and as a consequence of the punishment. In the present case, the workman was penalised by order dated 30-9-97. This penalty order was in operation at the time of passing the order dated 7-6-99. The Disciplinary Authority, thus, was duty bound to treat the suspension period as a period not spent on duty and also to deny, wages of the said period. There is no material on record to give inference that the Disciplinary Authority acted against the authority vested in him under Regulation 66 (8) (b) FCI (Staff) Regulations, 1971.

Accordingly, the contention of the workman that the order dated 7-6-99 was unjustified or being contrary to service regulations cannot be accepted. The management could not have given full wages to the workman over and above the subsistence allowance

for the suspension period from 5-4-95 to 21-8-96. The workman is not entitled to any relief.

Award as above.

LUCKNOW,
Dt. 3-9-2001.

RUDRESH KUMAR, Presiding Officer

नई दिल्ली, 13 सितम्बर, 2001

का.आ. 2690 :— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधांत्र के संबद्ध निरीक्षकों और उनके कार्यकारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/अथ न्यायालय आरबिटररेटर—श्री एम.जी. बनारे, भूतपूर्व डिप्टी सी.एल.सी. के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार का 12-9-2001 का प्राप्त हुआ था।

[सं. एल-22025/2/90-आई आर (सी-II)]

एन.पो. केशवन, डेस्क अधिकारी

New Delhi, the 13th September, 2001

S.O. 2690.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Arbitrator—Shri M. G. Wanare, Ex-DY.C.L.C.(C) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of WCL and their workman, which was received by the Central Government on 12-9-2001.

[No. L-22025/2/90-IR-(C-II)]

N. P. KESAVAN, Desk Officer

ANNEXURE

BEFORE SHRI M. G. WANARE, EX-DY. C.L.C.
(C), ARBITRATOR

(Arbitration under Section 10-A of I.D. Act, 1947)

62, Friends Colony, Katol Road P.O.
Nagpur-440013

Notification No. L-22025(2) 90 IR (C-II) dated 6th July, 1990 issued by the Government of India, Ministry of Labour—

In the matter of :

Industrial Dispute between the Management of Western Coalfields Limited in their Pench and Kanhan Areas and their workmen represented by the General Secretary, Rashtriya Koyla Khadan Mazdoor Sangh (INTUC), Chandametta, P.O. Parasia, District Chhindwara, Madhya Pradesh, over payment of wages for 23rd to 26th September, 1988.

The Government of India, Ministry of Labour in the relevant Notification ordered the following reference for my decision :

“Whether the demand of R.K.K.M.S. (INTUC) for payment of wages to the workmen of Pench and Kanhan Area for the period of

strike from 23-9-1988 to 26-9-1988 is legal and justified? If so, to what relief they are entitled?"

Parties to the Industrial Dispute are :

First Party : Western Coalfields Limited, Nagpur, WCL Management, in their Bench and Kanhad Areas.

AND

Second Party : Their workmen represented by R.K.K.M.S. (INTUC), P.O. Chandametta, Parasia, District Chhindwara (M.P.).

1. On 8-12-1989 both the parties to the industrial dispute agreed to refer the matter in dispute for my arbitration under Section 10-A of I.D. Act, 1947 and accordingly approached the Government of India in the Ministry of Labour with the proposal of solving industrial dispute by resorting to the method of arbitration. The Government of India in the Ministry of Labour accordingly accepted the said agreement and ordered reference by its Notification dated 6th July, 1990.

2. Representation of parties to the dispute

The first party i.e. the Management of Western Coalfields Limited, in their Pench and Kanhan Areas located in Madhya Pradesh were represented as per law through their respective Area Personnel Managers or their deputies namely :—

Pench Area :

S/Shri S. K. Pashine,
R. K. Singh (since dead),
C. Jaiswal,
C. Chandan,
R. B. Mishra,
S. K. Banerjee, and
S. Kerketta.

Kanhan Areas :

S/Shri Deepak Mewar,
V. R. Chowhan and their deputies viz.
M. L. Chourasia, and Seth
(both of them since dead)
Chandok,

The Management of Western Coalfields Ltd. in both the areas being the First Party to the dispute shall be referred to hereinafter as "WCL" for brief description and convenience.

3. The workmen of Pench and Kanhan Areas of WCL were represented by the Office Bearers of R.K.K.M.S. (INTUC) in accordance with law namely :—

S/Shri Radheshyam Singh,
Chirantan Bhattacharjee, and
Jabbar Khan.

The R.K.K.M.S. (INTUC) representing workmen of Pench and Kanhan Area being Second Party to this industrial dispute shall be referred to hereinafter as "INTUC" for brevity and convenience.

4. I wish to make it known that I was having Headquarter at Nagpur which is 200 Kilometres away

involving road journeys from Headquarter to the Areas of WCL and INTUC's Headquarter at Parasia and where hearings, sittings were held almost all the times. It was not only for the convenience of parties and workmen involved in the dispute but also for the efficient working and deriving better results, cutting down delays. Frequency of sittings/hearing was affected unfavourably causing unavoidable delay at different levels. The frequent changes like transfers in the Area Personnel Managers representing WCL contributed to delay very largely. It is not out of place to mention that WCL employed work force of 26/93 workmen out of which atleast 75 per cent thereof workmen were directly affected by this dispute. This made essential to hold hearings necessarily in the field areas involving slow travel by Road as the places are not connected by rail route.

5. On receipt of Government of India, Ministry of Labour, New Delhi's notification No. L-22025 (2) 90 IR(C-II) dated 6th July, 1990, I held first hearing in the matter on 23rd July, 1990. Both the parties i.e. the Management of WCL in their Pench and Kanhan Areas of Chhindwara (M.P.) and the Workmen represented by the INTUC to the industrial dispute appeared before me. A mutually agreed detailed procedure to be followed for the purpose of handling and resolving the industrial dispute and enabling me to give an award in this regard was drawn up and finalised duly recorded on the file with signatories duly authenticated as per law.

5.1 Later on both the parties sought adjournments of hearing and meeting from time to time with mutual consent. In the process Award could not be pronounced within the time limit laid down in the said notification dated 6-7-1990. Both the parties, however, mutually agreed in writing to extend time limit for submission of Award from time to time on various dates and finally upto 31st August, 2001 to enable me to submit the Award in this regard. All the relevant mutual agreements are placed on file for record.

6. Both the parties filed on 24th August, 1990 and 12th September, 1990 their statement of claims and handed over copy of such statement to each of opposite party as per Rule 10B of I.D. (C) Rules, 1957. INTUC also filed rejoinder as per Rule 10-B (4) of I.D. Rules, 1957. Copies are enclosed as Encl : INTUC 1-2, and WCL-1.

7. Around 400 hearings were held and holding of final hearing took place at Nagpur on 9-4-2001. This entire period involved in resolving the industrial dispute before me.

8. It may be mentioned that both the parties filed voluminous documents/records and list of witnesses supplied in support of respective contentions. The documents etc. were exchanged among both the parties, who examined, inspected and verified the relevant documents.

8.1 The INTUC filed a list of 214 witnesses on 15-10-90 and 6-11-1990.

8.2 The WCL filed a list of witnesses numbering 153 (127 from Kanhan Area and 26 from Pench Area).

9. Intervention by AITUC.

9.1 At this time when proceedings were progressing at a fast speed i.e. all the huge number of witnesses of Workmen produced by INTUC were completed and they (witnesses) stood examined and cross examined by WCL and INTUC and closed the evidence i.e. examining their individual witness and that at the stage arrived for commencement of witness of WCL Management, a Registered Trade Union viz. Samyukta Khadan Mazdoor Sangh, AITUC, Mohan Colliery, District Chhindwara (M.P.) intervened and presented an application on 26th December, 1993 praying for permission for intervention and allowing them to be made party to the industrial dispute before arbitration. It was stated by the SKMS-applicant that they have interest in industrial dispute and large workmen involving in industrial dispute before the arbitrator in the arbitration proceedings are its members.

9.2 Both the parties to the industrial dispute before me objected vehemently for allowing the application of the SKMS dated 26-12-1993 and prayed before me objected vehemently for allowing the application SKMS should be rejected and the application dated 26th December, 1993 of SKMS being aimed at delaying the proceedings and the SKMS has no substantial stake in the industrial dispute, the claim should be rejected.

9.3 I heard at length the pleas submitted by INTUC, WCL and the SKMS-Applciant and also conducted discrete enquiries and found and formed an opinion that the SKMS-applicant had an abundant opportunity to approach me right from 6-7-1990 to 26-12-1993 i.e. almost 3-1/2 years' time. The SKMS were not vigilant, diligent and keen to intervene in the industrial dispute before me and the negligence attributed to them cannot be rejected. On 3rd January, 1994 SKMS was asked upon to furnish vital list on its membership and also asked them proper authentication and also list of witnesses of workmen proposed to be examined. SKMS failed without any response. I gave opportunity to hear them on 29-1-1994 and also on 19-2-1994. SKMS failed to avail the same. I rejected the application of SKMS. However, I rejected the application of SKMS, who was informed accordingly. The SKMS-Applciant had signed the proceedings recorded on note sheet.

9.4 SKMS-Applciant was also given liberty to file their list of witnesses and/or statement of claim, if any, if they so desired. There was no response from the SKMS-Applciant.

9.5 The matter on the score of objection of INTUC is dealt with as under by me, along with the framing of issues :

- "1. I heard both the parties on the union's objection that the first party should not be allowed to file any rejoinder to the second party's rejoinder dated 12-9-1990. Having heard both the parties at length and having examined the objection of the Union in the light of I.D. (Central) Rules, I permit the first party to file their reply if they wish to do so. This would satisfy the fulfilment of natural justice to the parties.

2. After having held the detailed discussions the following issues are framed by the Arbitrator :

- (i) Whether there was strike during the period from 23-9-1988 to 26-9-1988 ? No.
- (ii) Whether the management in Pench and Kanhan Areas deducted wages of the employed persons for the period of 23rd to 26th September, 1988 ? Yes. Wages deducted.
- (iii) Whether the employed persons refused and or denied to work and or carry out the instructions/orders of their superiors ? No.
- (iv) Whether the employed persons were not paid or denied wages for the period in question ? Not paid and denied wages.
- (v) Whether there was production in the Colliery ? If not what were the reasons ? No. production, Reasons explained in the report.
- (vi) Whether the workmen are entitled to wages for the period merely because they had marked their attendance, but did not work ? Replied as in the relevant paras.

3. Both the parties are directed to file list of documents and or list witnesses which are to be relied upon and or taken into account."

10. The matter relating to examination of witnesses of Western Coalfields Limited was taken up from 8-4-1998 and 41 witnesses were completed on 14th February, 1999 with huge obstacles causing enormous unavoidable delays caused by WCL on large occasions.

11. After having completed examination of witnesses produced by INTUC on different dates and finally on 25th December, 1993, the WCL produced witnesses firstly on 8th April, 1995 and finally on 14th February, 1999.

12. Both the parties were therefore called upon to make submission. Both the parties requested for time upto December, 1999 to enable them to prepare the arguments etc. Time was reluctantly permitted by me. This matter came up for arguments etc. on 6th December, 1999. On this day Shri R. B. Mishra, Area Personnel Manager, WCL, Pench Area argued and again requested time for filing written arguments.

13. I would like to place on record that Shri N. K. Seth from WCL in Kanhan Area also argued their case on 6-12-1999 and requested for time for filing written arguments. On 6-12-1999 the INTUC was absent. The matter was listed on 14-12-1999 on which date Parties presented application for extension of time limit to enable the Arbitrator to give award by extended date. Prayer was granted. Notice dated 8th December, 1999 was served for adjourned proceedings on 11-1-2000, on which day S/Shri R. B. Mishra, Area Personnel Manager, Pench Area and INTUC appeared and sought adjournment on account of death

of Shri N. K. Seth, Deputy Personnel Manager, representative of Kanhan Area. The matter thereafter stood posted for 19-1-2000 and thereafter on various dates and finally on 9-4-2001 on which date the matter was heard and closed for final orders for submitting award to the Government of India as per law.

14. Having examined the documents filed by both the parties and having heard their arguments the following issues I repeat arose and framed on 15th October, 1990 for decision etc. :

- (1) Whether there was a strike during the period from 23-9-1988 to 26-9-1988 ?
- (2) Whether the employed persons refused and denied to work and/or carry out the instructions/orders of their superiors ?
- (3) Whether the management deducted wages of the employed persons for the said period ?
- (4) Whether the employed persons were not paid/denied wages for the said period ?
- (5) Whether there was production of coal in the Colliery during the said period ? If not, what were the reasons ?
- (6) Whether the workmen are entitled to wages for the period merely because they had marked attendance but did not work ?

14.1 The management of WCL pressed for decision on the issue at Sr. No. 6 above.

14.2 During the course of the proceedings on 4-1-1991 the WCL insisted to record and draw my attention on the relevant provisions of the certified standing orders (extract of clauses 8 and 9 only) but they did not produce any certified standing order for my perusal or any time copy of certified standing orders for examination etc. The extract of clauses 8 and 9 are as under :—

“8. Attendance.—All workmen shall be at work at the mine at the time fixed and notified to them.”

“9. Absence from work place of work.—Any workmen who after going underground or after coming to his work in the department in which he is employed is found absent from his proper place of work during working hours without permission from the appropriate authority or without any sufficient reason shall be liable to be treated as absent for the period of his absence.”

14.3 The WCL did not establish that workers were not present at the appointed time. Hence clauses 8 and 9 are not attracted. As already observed by me that the WCL however did not produce, though asked by me, any authenticated copy of Certified standing Orders from which the above said extract of clauses 8 and 9 were produced before me. I do not therefore consider it necessary to record legal comments on this point. I therefore do not take note thereof for decision. In fact a plain reading of text of clauses show that it has no application on the issues before me as workmen were present at the mine on the time of commencement of work as per clause 8. No evi-

dence has, however, been brought before me to prove otherwise. None of the workmen was found to have been absent from the work place nor any workman refused to obey orders of superiors, thus leaving honouring clause 9 above said and therefore nothing shows that Clause 9 was breached. WCL did not bring out any evidence to show that clause 9 was violated.

15. Documents/Records.—The records/documents filed before me have been examined. The observations made are extracted below :

“All the workmen without an exception reported for duty as usual and got cap lamp from Lamp Room issued and went down the mines after marking attendance in the Register maintained under the statute i.e. Mines Act.”

15.1 There has been, as I find, nowhere mentioned by way of any remark by Mine Managers that workmen did not go underground the mine. They were rather marked “in” on beginning of shift and “out” after the close of their respective shift of work. This was perhaps an attempt by workers leaders to record that there was absolute normalcy in working in the mines. As a matter of fact the senior supervisory officers at least should have recorded by way of remarks in the attendance registers that “the workmen concerned went underground but did not work as per normal fashion or manner.”

15.2 There have been filed reports in documents filed by INTUC by way of remarks in their respective work diary kept by mining sirdars, Overman and/or junior level men as per statute that the workmen performed alternative work underground. This is not reputed by way of not agreeing with above Overman's remarks by the senior supervisory officers concerned like Under Manager/Colliery Manager/Superintendent of Mines. This action on supervisor's part would adequately have proved that workmen went down the mine but did not work.

15.3 A report on strike was submitted in the prescribed manner in Form ‘N’ under Industrial Disputes (Central) Rules to the Statutory Authority i.e. Assistant Labour Commissioner (Central), Chhindwara and this Form ‘N’ duly prescribed under the Industrial Disputes (Central) Rules goes to show that there are 23 Collieries/Units in the Pench Area of WCL and that the only two collieries i.e. Newton and Ganpati (D.I.) collieries alone went on strike. It is interesting to note that the Form “N” shows that all the units/collieries of Pench Area worked as usual on 23rd September, 1988 and the same is also further revealed from the communications sent to District Magistrate/Collector/Police Officials. It is shown in the report that some of workmen of these units/mines went on strike on 24th September, 1988 and continued upto 26th September, 1988 mid-night.

15.4 The WCL filed one report before me as an exhibit marked as ‘T’ titled as “Pench Area—information on strike by RKKMS (INTUC) in the collieries/Units of Pench Area from 23-9-1988 to 26-9-1988. This shows that there are 23 Collieries/Units, out of which workers of only 12 Collieries/Units were on strike during the period from 23rd

to 26th September, 1988. Rest of the Colliery/Unit workers were not shown to be on strike. Further I find that the strength of workers in Pench Area was 14506, out of which only 176 were reported to be directly involved or on the strike and that there was no coal production loss in the following collieries/units.

1. Vishnupuri Colliery.
2. Shivpuri O.C. I.
3. Shivpuri O.C. II.
4. Sethia.
5. CGM Office.
6. Regional Workshop.
7. Barkuhi Hospital.
8. C.M. Stores.
9. Ekhlehra Sub Area.
10. Rawanwara Sub Area.
11. Chinda Sub Area.
12. B.G. Siding.
13. D.T.C.

15.5 It has, however, been revealed further that there was reported loss of production as follows :—

S. No.	Name of Colliery	Production loss in Tonnes
1.	Ekhlehra	2500
2.	Bhomori	1240
3.	N. Chandametta	680
4.	Chandametta	1560
5.	E.D.C.	784
6.	M.C.C.	1387
7.	Rawanwara	2224
8.	Rawanwara Khas	3200
9.	Chinda	1000
10.	Shivpuri U-G.	1650
Total :		16225

There is also remark mentioned at the bottom of report that "over burden was removed in the period in question and there was no coal face exposed at that time. This is as per usual practice".

16. The INTUC filed a copy of report sent in Form 'N' submitted by WCL to the Assistant Labour Commissioner (Central), Chhindwara in respect of their Kanhan Area. It is exhibited as DW 9. The relevant extracted figures are reproduced for ready reference. This report is signed by Personnel Manager, Kanhan Area of WCL. The WCL did not produce the Personnel Manager who signed the said report of Form 'N' to deny its contents. It is a statutory report. The INTUC claims to have collected it from the Assistant Labour Commissioner (Central), Chhindwara's office. The WCL did not deny its contents.

S. No.	Name of Colliery	(Period of strike from 23rd September 1988 at 8 AM to 26th September, 1988 Evening)	No. of workmen directly involved in strike	Strength of workmen of mine.
1.	Mohan	2	2024	
2.	Ghorawari	—	1518	
3.	Damua	—	2154	
4.	Nandan No. 1	—	1947	
5.	Nandan No. 2	—	899	
6.	Ambara	6	1545	
7.	Sukri	—	639	
8.	Datla	—	416	
9.	Rakhikol	—	885	

16.1 This report related to strike between 23rd September, 1988 to 26th September, 1988 is submitted by WCL in respect of their Kanhan Area to the Assistant Labour Commissioner (Central), Chhindwara (M.P.), who is statutory authority under the Industrial Disputes Act, 1947 read with Industrial Disputes (Central) Rules. I find the workers involved were only 8 i.e. Mohan Colliery-2, and Ambara Colliery-6 out of total workers of entire Kanhan Area. The management of WCL gave explanation in this regard that the entire work force of Kanhan area did not actually work on producing coal but all the workers marked their attendance and went down the coal mine but did not do any production work and the workmen, therefore, could not be said to be directly involved on strike of 23rd September, 1988 to 26th September, 1988.

17. I find that the various reports sent to Police authorities and internal senior officers of WCL reveal that there created an obstruction by way of planting flag of INTUC Union on the bunker to obstruct movement of coal tubs from within mine to surface of coal mine.

18. The WCL submitted their statement dated 24-8-1990 (WCL-I) followed by statement dated 12-9-1990 (WCL-II) copies of which were handed over to the INTUC for their say, which was filed by the INTUC on 12-9-1990 (INTUC-I). They are placed on record.

19. The same has been dealt with by me Briefly for sake of convenience, the WCL submitted (in WCL-I) that the INTUC did not give specific names and the amount due for whom relief is sought. WCL also submitted further that their employees in Pench and Kanhan Areas went on lightening strike under instigation by INTUC from 23rd September, 1988 2nd shift to 26th September, 1988 2nd shift, without

any notice as per law and without any justification whatsoever and that this matter was seized in conciliation and negotiations took place at WCL's H.Q.s. level and the strike was called off by INTUC and normal working was resumed from 9 P.M. on 26th September, 1988 and because of the strike the working after first shift on 23rd September, 1988 to 9 P.M. on 26th September, 1988 was a stand-still in entire mines of Pench and Kanhan Areas and that the workers in all the mines of both the areas refused to work on the aforesaid three days as a result of which there was no production whatsoever at all collieries of both the Areas and that this strike and non-production of coal caused heavy loss amounting to crores of rupees.

19.1 WCL further stated that the employees are entitled to wages only for the day he works and if an employee refused to work or refused to attend office, he is not entitled for any wages and that from 23rd to 26th September, 1988 the workers marked their attendance but they did not perform their normal duties and there was no production due to illegal agitation started by the INTUC and that the WCL repeated that in the instant case the workmen having not worked are not entitled to wages for the period in question.

19.2 On 12-9-1990 the WCL desired to file a further statement (WCL-II) in support of their earlier say for which INTUC vehemently opposed mainly on the ground that WCL was given one chance to file their claim and that WCL should not be given any further chance to file any further statement and that the INTUC relied on Rule 10.B(4) of I.D. (Central) Rules, 1957.

19.3 I observe, these rules are procedural requirements for the proceedings before the Labour Court, Tribunal, or National Tribunal. Strictly speaking the said rule will not have its application to the case before me. Assuming the WCL is not allowed to file their say as they now asked for, it may come up before me at the stage of argument and this will have to be dealt with elaborately in the fulfilment of natural justice. Rejection of say of WCL may not help. However, I did not agree with INTUC on this score. By this way this, does not deny any justice to the INTUC. I, therefore, allowed the WCL to file their additional say. The WCL contended that they (WCL) did not make any deduction of wages for the period from 23rd to 26th September, 1988 and that the principles of "no work—no pay" only was followed as the workmen did not do their normal duties during the period in question and that they were not entitled for any wages whatsoever for the said period.

19.4 The INTUC filed rejoinder on 12-9-1990 which is on record and marked it as INTUC-I.

20. The INTUC in their rejoinder (INTUC-I) submitted objection on demand of WCL for specific names and number of workmen involved in the industrial dispute as also the specific amount of wages for which relief is sought and the INTUC submitted under terms of arbitration agreement under clause IV of the same the Central Government specifically stated that the workmen employed in the Undertaking affected is Pench Area 13917 and Kanhan Area 12876 and

under Clause V thereof estimated number of workmen affected are likely to be 75 per cent around and that this position was agreed by the WCL before referring the subject matter for arbitration and that the management now cannot seek any clarification and that the dispute is in respect of deduction of four days wages and affected workmen belong to all the categories and their wages are to be calculated by the management on the basis of their monthly salary and daily wages and that WCL may be directed to prepare wages sheet and produce before arbitration.

20.1 The INTUC further submitted denial that the employees resorted to strike from 23-9-1988 to 26-9-1988 and that there was no such a strike and therefore question of giving strike notice did not arise and the INTUC emphasised that the WCL admitted that there was an agitation started by INTUC and INTUC further submitted that the Union never instigated any worker either to resort to strike or to stop work and in fact there was no strike as such during the period in question and the INTUC further submitted that on reveal of documents and statements of claim filed by the Union it will be clear that in all the mines the workers worked on the said dates and attendance were marked in Form 'C' and Form 'E' and the workers were employed on production work and that they discharged their duties and that the INTUC stated that the conciliation was seized and negotiation and discussion were held at WCL H.Q.s. Nagpur. The INTUC, however, specifically denied that the WCL's statement that after prolonged discussion strike was called off and INTUC added that in fact there was no strike and thus question of calling it off did not arise or was not arisen and the INTUC, however, admitted that there was peaceful agitation went on the said dates and that no worker was prevented/stopped from going on work and that INTUC denied that there was any instigation by them to go on strike. The INTUC further made submission by pointing out that on perusal of D.W. 7 it would reveal that the production was as usual as on the said days and it was as usual in the normal working days and hence the contentions of WCL that there was no production on the said days and that it caused heavy loss was specifically/basically false and it is being denied and the INTUC further claimed that workmen marked attendance in the Register in Form 'C' and 'E' and that workmen did not refuse to work and that the relevant Forms 'C' and 'E' would prove and reveal this position and that the INTUC submitted that law provides that once the worker attended his duty and his labour, efficiency is not undertaken by the management, he is entitled for wages and in these particular cases the workmen attended their duties, discharged their duties and therefore under the provisions of the Payment of Wages Act the workers are entitled for the wages and if penalty is given it will be a penalty under Section 15(3) of the Payment of Wages Act and that the WCL being a Public Sector should not have deducted wages without giving any notice to concerned workmen before effecting any deduction from their wages.

20.2 The INTUC further submitted that the WCL having admitted that there was no strike and that there were only agitation, hence WCL is liable to pay back the deducted wages for the said four days

and the WCL have no right to deduct wages in violation of the provisions of Payment of Wages Act.

21. The WCL submitted time and again that there was no deduction of wages but that only those workers who did not work were not paid wages on the principle of "no work no pay".

22. The WCL in their submission said in an elaborate manner that the presumed reasons for agitation and/or stoppage of work and voiced that INTUC alone was responsible for agitation/stoppage of work on the days in question. This issue has been dealt with by me under separate paras.

23. The INTUC with an equal force submitted that there was no stoppage of work on the said days and there was no instigation by the INTUC whatsoever. The INTUC contended that there existed dissatisfaction among workers about the use of size of tubs caused by the management and the workmen themselves resorted to peaceful agitation to express dissatisfaction.

Evidence : Summation

24. By this court's notice dated 17th June, 1999 it was informed that hearing to hold summation of evidence—documentary and oral would be held on 28th June, 1999. Both the parties sought adjournment. Accordingly by court's notice dated 25th November, 1999 hearing was fixed for 6th December, 1999, but the Union and Manager (INTUC and WCL) sought further time to fix another date which was allowed with a direction that the parties would file their respective written arguments if so desired by them. It has been informed on 8th January, 2000 that the Officer representing Kanhan Area Shri N. K. Seth Personnel Manager expired on 7th January, 2000 and thus grant of adjournment was felt unavoidable. On 11-4-2000 both the parties by a joint application dated 11-4-2000 prayed time, some time after 25-4-2000 and for oral submission time was allowed.

24.1 The WCL, however, on subsequent date filed written argument dated 15-2-2001 marked as WCL-III and orally submitted that they have nothing more to add orally.

24.2 The INTUC too filed later-on written argument which is placed on record file and marked as INTUC-II.

24.3 The INTUC asked for an opportunity again to make oral submission which chance was allowed, but they failed to avail.

25. ARGUMENTS :

Both the parties i.e. WCL and INTUC, as already stated above, made submission of arguments in writing. I have placed the same on record and marked enclosure as WCL I and INTUC II & III. I have considered it necessary to extract the same for easy handling and reference.

25.1 Before the extract of arguments of WCL is taken up for consideration, the WCL in para 3 on page 2 reproduced the Government's Notification of terms of reference. It is purported to be as under:

"...for the period of 23-9-88 to 26-9-88 on account of taking part in strike is legal and justified?"

The said words in Government Notification of reference reads as under :

"...for the period of strike from 23-9-88 to 26-9-88 is legal and justified?"

25.2 The WCL representative was not available to explain the above situation as they did not avail the opportunity for submission of oral arguments though offered more than once.

25.3 I have no material before me to presume that the interpolation of the above word is deliberate or otherwise. Perhaps the WCL argued on the premises that the workers went on participating strike during the period from 23rd to 26th September, 1988.

25.4 I deal with the subject on the facts involved in this matter.

26. The WCL Management submitted argument as given below :

"1. The admitted position in the present case is that Coal Industry is a Government of India Public Sector Undertaking and Coal is an item termed as 'PUBLIC UTILITY SERVICES' under the Industrial Disputes Act and the said industry being a public utility services, strikes should be resorted to very sparingly as going on strike detriments the production of coal and the economy of the well being of the society as a whole. Justifiability of a strike should be viewed in the context of socio-economic interest of the Nation and resultant lawlessness, anarchy and chaos.

2. Every dispute between the employer and the employees has, therefore, to take into consideration the third dimension viz. the interests of the society as a whole, particularly the interest of those who are deprived of their legitimate basic economic rights and more unfortunate than those in employment and management. The justice or otherwise of the action of the employer or the employee has, therefore, to be examined also on the anvil of the interests of the society which such action tends to affect. This is true of the action in both public and private sector. But more imperatively so in the public sector. The management in the public sector is not the capitalist and the labour an exploited lot. Both have paid employees and owe their existence to the direct investment of public funds. Both are expected to represent public interests directly and have to promote them.

3. In the above context, an arbitration dispute was referred before this Hon'ble Arbitrator in respect of the following terms of reference:—

"Whether the demands of RKKMS for the payment of wages to the workmen of Pench and Kanhan Area for the period 23-9-88 to 26-9-88 on account of taking part in strike is legal and justified? If so, to what relief they are entitled?"

4. Before submitting the legal submissions justifying the action of the Management, for the non-payment of wages to the workers for the period 23-9-88 to 26-9-88, the Management begs to bring before this Hon'ble Arbitrator the facts which forced the Management to stop the wages of the workers with respect to the period during which the workers had not worked.
 5. That the Management of WCL in consultation with the various trade unions operating in the said area, i.e. Pench and Kanhan, had decided to increase the size of the loading tub used by the loaders in the mines for loading purposes. Size of the tub used in different mines was as per the thickness of the seam of coal. In some of the mines 45 cft tubs were already being used whereas in other mines the size of the tubs was different depending upon the thickness of the same.
 6. The INTUC union had some dispute over the 45 cft. tub size on health grounds. They had expressed some health hazard for the loaders if 45 cft tubs were allowed to operate. The Nandan Mine was already having 45 cft tubs and since the problem raised by the Union appeared to be on humanitarian grounds, the Managing Director entered into an agreement with AITUC. However, enraged by this agreement/settlement the rival unions including RKKMS started agitations for introducing 45 cft tubs in all the mines under Pench and Kanhan Area of WCL. The Management was left with no choice but somehow settle the dispute and, therefore, entered into a settlement dated 17-1-88.
 7. Subsequent to the settlement dt. 17-1-88 the Management of WCL entered into another agreement with SKKMS (AITUC) on 19-9-88 and as per the said settlement the workers employed in mines of Nandan 1 and Nandan 2 shall be provided with tubs of 40.5 cft in place of 45 cft.
 8. That the second party Union had strong objection to the said settlement and demanded that the 45 cft tubs should also be introduced in the mines of Nandan 1 and Nandan 2 and that the employees of Nandan 1 and 2 mines should not be given a preferential treatment and further agitated that the agreement entered with SKKMS by WCL was bad in law as the same had been entered into without the consultation of the Steering Committee and other Unions operating in the said area.
 9. Being agitated by the said action of the Management of WCL in introducing smaller size of tubs in Nandan 1 and 2 mines and the remaining mines in the said area were operating with bigger tubs, the RKKMS Union went into a strike w.e.f. 23-9-88 and strike/agitation continued upto 26-9-88.
- For all the four days during the strike the workers working in the mines of Pench and Kanhan Area did not do any work and production for all these 4 days was Nil.
10. It is also pertinent to mention here that the workers involved in the strike came for work and marked their attendance. However, after marking their attendance all the workers were sitting idle and performed no work whatsoever.
 11. That as the work/production of the Management of WCL in Pench and Kanhan Area was badly affected and also that the workers did not perform their duties which they were supposed to do and which was assigned to them, the Management of WCL took the decision of deducting the wages of these striking employees for the period they did not perform their respective duties.
 12. That the short-fall in the production and comparative chart showing the detailed production by WCL has been produced before this Hon'ble Authority and the same has been marked as Annexure K which will evidently prove that there was no work during the 4 days from 23-9-88 to 26-9-88 and the production had come to a standstill.
 13. That the payment of Wages Act, 1936 empowers the employer for deducting the wages of the employees on account of remaining absent from the place or places where, by terms of his employment he is required to work and such absence can be for the whole or any part of the period during which he is so required to work. Section 9 of the Payment of Wages Act empowers the employer for deducting wages in respect of employees remaining absent from the place where they are required to work and the said section was further amended in the year 1937 and an explanation was incorporated by which it says that "for the purpose of Section 9 an employed person shall be deemed to be absent from the place where he is required to work if, although present in such place, he refuses in pursuance of a stay in strike or for any other cause which is not reasonable in the circumstances, to carry out his work."
 14. That the fact that the workers were on strike from 23-9-88 to 26-9-88 is evidently clear and stands proved from the record of the Note Sheet in respect of the discussion held between the Management of WCL and the Union represented by RKKMS held on 26-9-88, and the Note Sheets have been signed by the Non-applicants as well as the applicants and vide the Document Annexure 'A' the Union has admitted that there has been a stoppage of work in the mines of Pench and Kanhan Area w.e.f. 23-9-88 and that the Union further agreed to call off the stoppage and restore normalcy immediately. The very fact that the Union has admitted

that there has been stoppage of work stands admitted with regard to the fact that there had been stoppage of work by the workers on the instigation by the Non-applicant Union.

15. The fact that the workers have not worked from 23-9-88 to 26-9-88 further stands proved from the Memorandum of Settlement dated 5-11-88 wherein the representatives of the Non-applicant Union have accepted that there was a strike from 23-9-88 to 26-9-88 and the question of payment of wages for these 4 days of strike shall be referred to be adjudicated upon by a mutually acceptable arbitrator. The Union having accepted that there was a strike, strengthens the case of the Management to show that the workers did not perform their duties from 23-9-88 to 26-9-88 and for the said reason the Management is fully empowered to deduct the wages of the employees who participated in the strike.
16. In support of the submissions made by the Management of Pench and Kanhan Area of WCL the management further led evidence of about 45 witnesses all of whom had very specifically stated before the Arbitrator that no work had taken place during the strike period i.e. 23-9-88 to 26-9-88. Even otherwise, the Union has in almost all the documents accepted the fact that there was an agitation/strike in the mines and also that there was stoppage of work as a result of the said strike that the Union vide its agreement and settlement entered into between the Management of WCL had called off their strike w.e.f. 26-9-88 goes to prove that the workers were not performing their duties during the period when they were on strike, though these workers were marked present on these days.
17. The mere fact that a worker is marked present would not give the right to claim wages if he does not perform the duties which an employee is supposed to as per his employment. If an employee, though present but refuses to work or perform his duties either individually or collectively, the Management is empowered under Section 9, sub-section 9 of the Payment of Wages Act, 1936 to deduct the wages of such employees for the period of their absence.
18. That the Management have also led evidences of some of the Senior Executives working in these areas to prove the fact that the workers were in fact on strike and were not performing their duties though these workers were coming for work during this period and have marked themselves as present. The contention of the Management further stands proved from the production chart produced before this Arbitrator and the said chart prove the fact that the workers in these mines have not worked.

19. The Supreme Court of India in the case of Bank of India Vs. T. S. Kejawala and others reported in 1990 (Vol. 11) LLJ Page 39 has very categorically held that the employer is entitled to deduct the wages for the period of the absence from the place of work. In the said Judgment the Supreme Court has held that :—

“Whether a worker indulge in a misconduct such as a deliberate refusal to work, the employer can take a disciplinary action against him and impose on him the penalty prescribed for it which may include some deduction from his wages. However, when misconduct is not disputed but it is, on the other hand admitted and it is resorted to on a mass scale, legal or illegal, there is no need to hold an enquiry. To insist on an enquiry even in such cases is to pervert the very object of the enquiry. In a mass action such as a strike it is not possible to hold an enquiry against every employee nor is it necessary to do so unless, of course, an employee contends that although he did not want to go on strike and wanted to resume his duty he was prevented from doing by the other employees or that the employer did not give him proper assistance to resume his duty though he had asked for it. Normally when the Workmen go on strike for a portion of the day, the employer at the most could deduct only prorata wages. But when the employees go on strike during the crucial working hours which generate work for the rest of the day to accept such argument is in effect to negate the purpose and efficacy of the remedy and to permit its circumvention effectively. When the employees come back for work after their strike during such crucial hours, it may be that they are not prevented from entering the work place but such attendance after the crucial working hours would be useless as there would not be work to do during the rest of the hours. Such later resumption of work by the employees was not in fulfilment of the contract of service or any obligation under it. The employer therefore is not liable to pay either full day salary or even the prorata salary for the hours of work that the employees remained in the work place without doing any work. It is not a mere presence of the workmen at the place of work but the work that they do according to the terms of the contract which constitutes the fulfilment of the contract of employment and for which they are entitled to be paid.”

“The fact that the strike was legal or justified or that the employer has held disciplinary proceeding is immaterial for such

deduction. The deliberate refusal to work may be the result of various actions on the part of the employees such as sit-in-strike or 'stay-in-strike' at the work place or a strike whether legal or illegal or go-slow tactics. The deliberate refusal to work may be legal or illegal as when the employees go on 'legal' or 'illegal' strike. The legality of strike does not always exempt the employees from the deduction of the salaries for the period of strike. It only saves them from disciplinary action since a legal strike is recognised as a legitimate weapon in the hands of the workmen and the liability of deduction of wages incurred on account of it, whether the strike is legal or illegal."

In a similar matter the Supreme Court in the case of 1994 (5) SCC page 572, Syndicate Bank and another -vs- K. Umesh Nayak and others have further upheld that the employer can deduct wages for the strike period even though the employees may go off strike for some hours of a day. The Supreme Court further held that to entitle a workman for wages for the strike period the strike has both to be legal and justified. If the strike is only legal but not justified or if the strike is illegal though justified even then the workers are not entitled for wages for the strike period and accordingly in all the cases of illegal strike the employer is entitled to deduct wages for the period of strike. The Supreme Court further observed that to be entitled to the wages for the strike period, the strike has to be both legal and justified. Whether the strike is legal or justified are questions of fact to be decided on the evidence on record and these questions have to be decided by the Industrial Adjudicator.

In the light of the above made observations by the Supreme Court this Hon'ble Authority would not be in a position to decide whether the strike by the Non-applicant Union is legal or justified as the same can only be done in this case by the Industrial Tribunal. In the present case this authority has to only look whether the Applicant-Management is empowered to deduct wages for the strike period and the fact that there was a strike w.e.f. 23-9-88 to 26-9-88, the various agreements, settlements and Note Sheets of the discussions held during the period of strike would show and the fact would be proved that the Non-applicant Union has in all these documents accepted the fact that there has been a strike and stoppage of work from 23-9-88 to 26-9-88. Once if the fact is proved that there has been a stoppage of work for a particular period, then the Management is fully empowered for deducting the wages for the period of strike.

It is submitted that it is not enough that the employees attend the place of work whereas they must put in the work allotted to them. It is for the work and not for their mere attendance that wages are paid to an employee. If the employees for the same reason put in their allotted work, but do not for any reason comply with the formalities of signing the attendance, in this case the Management cannot deduct the wages on the ground that the workers have not marked their attendance. Similarly, if the workers mark themselves present but refuse to perform their regular work, the management is fully empowered for deduction of wages and the mere fact that they have marked presence would not entitle the employees for wages on a particular day.

The Supreme Court have also held that even in a case of go-slow whether the workmen resorting to go-slow resulting in negligent production, workmen not attending to duty and found loitering in the premises with a view to pressurise the company to concede their demands, the workmen cannot claim wages for such period as they do not do any work during the day of some period in the day and the Management is entitled for deduction of wages.

In view of the above submissions and averments and also in view of the settled principles of law enumerated above, it is submitted that as the admitted position stands that there was a strike and stoppage of work in the mines of the applicants w.e.f. 23-9-88 to 26-9-88 and that as a result of the said stoppage of work by the workers there was no production during this period of 4 days, the management had a right of deducting the wages for the period of the workers refused to work and accordingly the action of the Management in deducting the wages of these employees is fully justified.

It is therefore submitted that this Hon'ble Authority may be pleased to hold that the deduction of wages of the workers of Pench and Kanhan Area w.e.f. 23-9-88 to 26-9-88 is legal and justified and therefore, no interference is called for against the said action and accordingly the reference is liable to be answered in the affirmative in favour of the Management."

27. The arguments of INTUC are extracted as under :

- "(1) When agitation was called, there was no dispute pending regarding the deduction of wages or any other dispute pertaining with the settlement made with SKMS Union was pending with Asstt. Labour Commissioner (C) or Regional Labour Commissioner (C) or any other forum under.
- (2) Since there was no pending dispute on the day of agitation. Therefore, it was not

- a strike, Since it was not a strike therefore the deduction of the 4 days wages was not only illegal but was bad.
- (3) That, under the Payment of Wages Act the ceiling limit is Rs. 1000 means those workman who are getting salary of Rs. 1600 or below they are governed by Payment of Wages Act.
 - (4) In the present dispute refer in Arbitration and the workers involved in the dispute were already drawing wages more than Rs. 3000 therefore the Payment of Wages Act is not applicable to the workers and, therefore, the deduction made under Section 9 of the Payment of Wages Act is illegal.
 - (5) When the Payment of Wages Act is not applicable no provisions can be made applied on the workers of deduction of the Wages.
 - (6) Under the Labour Laws, only courts are Regional Labour Commissioner is competent and having jurisdiction to declare strike as illegal.
 - (7) The management neither approached any court nor approach the Regional Labour Commissioner for getting the strike as illegal.
 - (8) Since there is no court orders declaring the strike illegal and therefore management can not say the workers were on strike.
 - (9) Infact there was only a peaceful demonstration and there was no strike,
 - (10) That, even pressing the version of management is taken to be a correct then also since the management has not obtained any orders from competent court or Regional Labour Commissioner declaring the strike as illegal and therefore now the management is estopped from taking frivolous pleas before your honourable authority.
 - (11) That, the workers who were examining on behalf of the workers have stated that they were performed their duties on all the four days. They have mark their attendances, in attendance registers, and have also filed certain documents the statements of workers may be taken as true since the balance of convenience is in favour of employees. The Calcutta High Court in case of State Bank of India vs. Amal Kr. Sen reported in 1988, L.I.C. Page 1585 held that—
- “Whenever the weaker or the poorer section is pitted in forensic combat against the stronger or the richer section, then if two interpretations are reasonably possible, whether of the facts or the laws involved, the interpretation in favour of the former is to be adopted so that “Social Justice” i.e. justice to the weaker or the poorer section of the society, is ensured.”
- (12) Since the workers are from weaker section hence the management cannot be permitted to do whatsoever they like that to against the rules and regulation.
 - (13) That, social justice means justice to the weaker and poor section of the society and in the light of provisions contained in constitution of India, the authority may pleased hold that since there was no order of the court or Regional Labour Commissioner declaring the strike illegal and therefore the deduction from salary was bad and illegal.
 - (14) That, the Supreme Court in case of B.R. Singh vs. Union of India reported in AIR 1990 page 1 held that, if no proceedings are pending before labour authorities and no award touching workman operational at the time of strike, it cannot be said that the strike was illegal and therefore the contention of the management that the strike was illegal is not based on any official records.
 - (15) The management failed to establish that they have obtained any orders from the court or Regional Labour Commissioner for getting declared the strike illegal.
 - (16) In view of the aforesaid legal averments, the management was not competent to deduct the wages applying provision of Payment of wages Act since this Act is not applicable to the workers. In view of ceiling limits of the wages,
 - (17) That, the union has already submitted the written arguments and they examined more than 250 workers. The union has established that there was no strike.
 - (18) Infact there was no strike, it was only a peaceful demonstration. The right of demonstration is an important weapon and is right in the armory of the workers. This right can not be snatched the right has been recognised by almost all democratic countries and therefore the peaceful demonstration cannot be term as strike. The union is herewith filing the judgement of Supreme Court and Calcutta High Court.
- It is therefore prayed to Hon'ble Authority to please hold that there was no strike from 23-9-88 to 26-9-88 and also hold that management has not obtained any orders from court or from the Regional Labour Commissioner for getting declared the demonstration as illegal and therefore the absence of any orders it cannot be said to be illegal strike.
- It is further pleased to hold that since there was no strike and therefore the deduction of 4 days wages is bad and illegal.
- The Hon'ble Authority may also direct the management to release 4 days wages and they be punished for the said illegal deduction.”

28. The INTUC also submitted further written arguments. The relevant extract of the same is as under :

"That, all such workers of Pench and Kanhan Area of WCL during the period 23-9-88 to 26-9-88 attended their duties and registered their attendances, worked as desired and directed by the management.

The workers attended their duties had worked for 8 hours and obeyed the orders of their superior. They had not stopped the work or mine nor were on strike for the period 23-9-88 to 26-9-88.

On reveal of the documents and statement of claim filed by union, it is cleared through witnesses that in all the mines the workers worked on these dates and the attendances were marked in Form 'C' and Form 'E'. Workers were engaged in mining work and discharged their duties for the period of 23-9-88 to 26-9-88.

That, on 26-9-88 a discussion was held for restoring the normalcy in the mines by removing the peaceful agitation by union office bearers. No workers had been prevented to stop the work nor any worker has been instigated to go on strike.

That, all of a sudden on dated 19-9-88 without informing the other unions or to steering committee the management entered into an agreement/settlement (DW-5) with Sanyukt Khadan Mazdoor Sangh (SKMS-AITUC) by agreeing to put smaller size tubs of 40.05 cft. by replacing the bigger size tubs, i.e. 45 cft. with a view to damage the earlier agreement finalised on 17-1-88 with R.K.K.M.S. (INTUC). Here it is to note that SKMS-AITUC in Pench and Kanhan Area enjoyed only 10 per cent of the total manpower.

That, WCL management violated code of discipline, adopted unfair labour practices where the management was duty bound to negotiate the policy matter with major and recognised R.K.K.M.S. (INTUC) Union. Action of the management through agreement dated 19-9-88 with SKMS-AITUC Union only to insult R.K.K.M.S. (INTUC) and to bring down the production and productivity of Pench and Kanhan Area of WCL.

That, vide document No. W-5 term No. (6) WCL Chairman-cum-Managing Director, not only to put back small tubs to bring down the productivity also agreed with SKMS-AITUC Union to refund 8 days deducted wages of such loaders who were on illegal strike for a period of 32 days.

That, peaceful agitation for the upliftment of the public sector marked and called by the WCL management as 'strike' definitely discriminative attitude and unlawful.

The management surprisingly and all of a sudden by deducting the wages has violated the provisions of section 9-A by not issuing the notice to individual worker.

During cross examination to witnesses the fact is, till date management has not recovered the advance amount of Rs. 125 from workers.

Union further submitted that workers never refused to work. During 23-9-88 to 26-9-88 management not given any charge-sheet in misconduct, no show cause notice nor any "No Work No Pay" letter to any of the worker. Every attended worker resumed their duties, obeyed the instructions and worked for complete working hours.

All the documents and evidence submitted by union confirms that workers were not on strike during the period 23-9-88 to 26-9-88, they worked up to the satisfaction of the local management."

29. While placing before me their written arguments, the INTUC representative Shri C. Bhattacharya, General Secretary also handed over a xerox copy of judgment from High Court of Calcutta which drawn up my attention to the judgment in case of Manoj Kanti Bose & Others-vs.-Bank of India and Others (LLJ I 197, 285 HC Cal) and instantly prayed that this judgment may be considered and taken into account as it is relevant to this case. The relevant extract of this case is as under :

"The facts in brief are that bank employees went on resorting to mass demonstration/meeting and the management of Bank ordered deduction of wages from the wages of employees for the day of demonstration lasting for 5 to 20 minutes etc. It was held as under :

Unless the employer is empowered or authorised by any Act or under the terms and conditions of the employment to deduct any part of the salary from the salary payable to the employee, any such deduction will be unauthorised and in excess of the power of the employer and will, therefore, be illegal. Under the conditions of service contained in the two awards and the settlement, there is no provision authorising the Bank to deduct any part of the salary on a pro rata basis for failure or refusal on the part of the employee to carry on their work during any part of the working hours after the employees have attended office and joined their duties."

30. The INTUC contended that deduction of wages without giving an opportunity to explain is violative of the principles of natural justice according to which the affected workmen has to be given an opportunity to explain his conduct and the circumstances of the case may be objectively considered. This is in keeping with the sense of justice and fair play. Shri C. Bhattacharya had further invited my

attention to another judgment reported in F.L.R. 1980 (41), page 213 in *M/s. Apar Private Ltd. Company-vs.-S. R. Samant & Ors.*, which held that "Reduction of wages or of the emoluments on the allegation that the workers in general had resorted to go-slow is wholly impermissible in law, specially when they were not piece-rated employees." "This is not to suggest that the individual worker or the workers in general can commit misconduct and still can go scot-free. The standing orders as well as the terms of the settlement provide for remedy relating to such misconduct on the part of the employees. Remedies include, having disciplinary action, claim for damages on partial failure of consideration and complaining of, unfair labour practice on the part of the employees to the appropriate Tribunal in terms of Maharashtra Act No. 1 of 1972." "In our judgment, in the absence of a specific term in settlement or statutory provision an employer has no right to reduce the wages or the emoluments on the allegation that the workers had resorted to go-slow tactics or had not performed their part of the obligation in a settlement." "It is clear that management has proceeded on the assumption that the workers have indulged into serious type of misconduct. Reduction of wages under the circumstances is clearly a punishment. Such penal action is not permissible without holding necessary enquiry as it is violative of principles of natural justice. There is absolutely no justification for such action, specially when it has been taken unilaterally. After all pay packet is the property and there can be no deprivation of it except in due process of law."

30.1 The INTUC contended that the principles laid down in the above judgment has a force of law that in view of these judgments the WCL had no authority to reduce Payment of Wages or monthly emoluments of workers as the WCL never gave any notice to the worker concerned who has been affected adversely. The action of 4 days deduction of wages by the Management of WCL may kindly be set aside.

31. The version of witnesses analysed. Both the parties i.e. WCL and INTUC produced a large number of witnesses for examination. Out of these witnesses, I have taken for examination etc. a few witnesses of both the parties and briefly summarise the version of their statement for specific purposes. The evidences are placed in a separate file.

31.1 The witnesses produced by the INTUC—workmen side are described as "DWU" Defence Workers Witnesses, and "MW" for WCL—Management's witnesses for the sake of convenience.

(1) Witness DWU 1.—Shri Abdul Latif, Mining Sirdar, Rawanwara Colliery, stated that I along with other workers went on duty as usual. I neither other workers were stopped from going to work nor anybody was instigated not to work. I worked underground mine on the relevant days from 23rd to 26th September, 1988 and that our shift incharge, Overman Shri Chourasia instructed to do work as usual and that all the workers under his charge worked normally. For instance, dresser, carrier, Tman and blasting of coal was done and coal was loaded by loaders in Tubs and that as per Mines Act a record note was made in Shot Firing Book kept at

Mine and that shot firing book is filled up in all shifts by marking entries by Overman, Shot Firer and during these days the Manager, Safety Officer issued necessary instructions as usual for doing work and no worker refused to do any work, rather they worked as per instructions given to them, and that he was not aware of any instructions issued by the Management for deduction of wages and that all workmen going underground were issued Cap Lamp which record is in Mines Office and that he worked 8 hours as usual.

On cross examination by WCL representative, the witness said on the relevant days production of coal was there and that he was not aware whether tubs loaded with coal went up the mine and that there was no agitation. The witness replied to the question whether wage was cut for those workmen who did not work. The witness replied that wage cut was made for those who worked on the relevant days.

(2) Witness DWU 2.—Shri Ganpat, Attendance Clerk, Rawanwara Khas Colliery on 9-3-1991 stated that he filled Forms C, E, Registers. The wages for three days was deducted without any notice etc. He also stated that attendance was recorded as usual, but later-on it was deleted. He further stated that No S.O. M.S.O. were displayed. There was no rivalry. Coal was produced on 23rd, but coal did not come up on 24th due to stoppage of Haulage, there being Flag planted on line. Wages to essential workers only were paid. Wages of trammer, dresser, Tman, Lineman, Haulage Khalasi, Tub Loader were deducted.

(3) Witness DWU 3.—Shri Ramsajiwan, Overman, Pench East Colliery stated on 11-3-1991 that 50 cft. Tub is used for loading and he took work from all workers under him and reported the same under the Mines Act. The jobs done are cleaning, coal stacking, Timber stocking, stone dusting, blasting, filling tubs. The wages were not paid. How many workers were deployed is recorded in the book. The manager signs the said book. However, Overman's book does not reflect/indicate coal production. Coal was produced underground. But despatch of coal is not known.

(4) Witness DWU 4.—Shri Jitan, Tub Loader, Pench East Colliery stated that he worked as Tub Loading, Stone dust, cleaning of mine. His wages was deducted without notice etc. Haulage line was not obstructed, but some Flag was seen on line. He further stated that Coal was blasted underground. The tub moved from working face but not known if it went to surface as it was not visible. He further stated that Tub slip was issued for having loaded the tubs. The work was done on attendance (and not on piece work) on orders by Overman/Mining Sirdars.

(5) Witness DWU 5.—Shri Laxminarayan, Mining Sirdar, Shivpuri Underground Mine, stated that the workmen under him worked, but no wages were paid. No notice of intimation was given for deduction of wages as per certified standing order. It was known on 10th day of payment. The attendance register reflects that the workers had worked. However, no production was made.

(6) Witness DWU 6.—Shri Ramchandar, Tub Loader, Shivpuri Underground Mine, stated that he worked on attendance as per Overman's instructions, but wages not paid. By the side of haulage line flag was planted. I loaded the Tub, but movement of tub is not my business.

(7) Witness DWU 7.—Shri Abdul Wahid, Token Clerk, Shivpuri Underground Mine, stated that the Shift Incharge took alternative jobs and all workers marked attendance and went down the mine as usual.

(8) Witness DWU 8.—Shri Narad, L. R. Charger, Shivpuri Underground Mine, stated that he issued lamps to all workmen as usual and received back from them the lamps after the close of shift.

(9) Witness DWU 9.—Shri Khunnu Khan, Overman, Chandametta Colliery, stated that all workmen under him worked without any hitch during full shift. He took work like timber movement, cleaning of mine, supporting main line etc. The workers have been paid. Even though coal was not produced, workers were worked on alternative jobs. The deduction of wages was made without notice etc. The Managers issued instructions for alternative jobs to be done. The Overman's register reflects work done which is signed by Manager.

(10) Witness DWU 10.—Shri Mahesh, Overman, Chandametta Colliery, stated that the workers worked as per instructions without any problem. Coal was blasted, explosives were used. None of the Managers asked as to why coal was not transported to surface. Alternative jobs were performed by workmen, but no wages were paid. Every day 3 tubs only were loaded and brought up in my shift.

(11) Witness DWU 11.—Shri Wahid Khan Habib Khan, Attendance Clerk, Chandametta Colliery, stated that he filled C, E, Registers and recorded attendance. The wages were deducted without notice. Coal production did not take place during this period.

(12) Witness DWU 12.—Shri Kailash Shivhare, Overman, Rakhikol Colliery, stated that he took work of alternative jobs from the workers under him and recorded details of work done in Overman's diary under the Mines Act as per management's directives. However, no wages was paid. No notice was given. There was no agitation or strike. Dhakka Jam was due to congress flag planting. None of the workmen was around the flag which could have been removed without difficulty and there would not have been labour trouble on this count.

(13) Witness DWU 13.—Shri Kailash Verulkar, Token Clerk, Rakhikol Colliery, stated that the manpower was average. The attendance was marked and the Dakka Jam was there as there was congress flag planted near the haulage line and that the said flag was not obstructing the movement of tubs if started. No worker was advised not to work or was not advised to agitate. Workers were not paid wages and no notice was given for this deduction.

(14) Witness DWU 14.—Shri Kalicharan, Loader, Rakhikol Colliery, stated that he worked as timbering mazdoor and cleaning of mine, line packing as per Overman's orders/instructions. Deduction of wages

were detected while receiving wages. Besides this, there was no notice etc. for it.

(15) Witness DWU 15.—Shri Sheikh Farid, Overman, Nandan No. 2 Colliery, stated that there were strikes of long duration, say 3 months or so in 1987-88. The workers were paid wages though there was no production. The workers are not paid wages for 4 days involved in the present case. Flag was planted besides the line or by the side of the line.

(16) Witness DWU 16.—Shri Sahiblal, Tub loader, Nandan No. 2 Colliery, stated that there was no agitation. No union officials instigated the workers not to work. The workers performed work as per instructions of Overman, Mining Sirdar on 23-9-88 tubs were loaded, but wages were not paid. There was no notice given in this regard. He also stated that the Lal Zenda Union workers struck work for 3 months in 1987 and 1 1/2 months in 1980, but wages were paid.

(17) Witness DWU 17.—Shri Shiva Prasad, Mining Sirdar, Nandan No. 2 Colliery, stated that the workers performed alternative jobs given to them as per instructions of Superiors. 100 Tubs were loaded in his shift.

(18) Witness DWU 18.—Shri Janvir Khan, Token Clerk, Nandan No. 2 Colliery, stated that all workmen reported as usual and recorded their attendance. The workers performed alternative jobs, but wages were not paid to them and that there was no notice or instructions to deduct workers' attendance and wages.

(19) Witness DWU 19.—Shri Riyaz M. Qureshi, Pt Munshi, Nandan No. 2 Colliery, stated that he set loaders and checked up tubs in section of mine. He loaded about 100 tubs on 23rd and 24th September, 1988 and alternative work was also performed. However, no wages were paid and no notice was given.

(20) Witness DWU 20.—Shri Abdul Gaffar, Overman, Nandan No. 1 Colliery, stated that Lal Zenda Union Workers struck work and they did not work. However, the wages were paid. Alternative jobs were extracted from the workers.

(21) Witness DWU 21.—Shri Lakhanlal, Mining Sirdar, Nandan No. 1 Colliery, stated that the workers worked 8 hours and produced coal on the relevant dates. They produced coal of 45, 60, 55 tubs on various dates.

(22) Witness DWU 22.—Shri Ramchandra, Tub Loader, Nandan No. 1 Colliery, stated that the workers loaded tubs on 23rd and did alternative jobs on 24th, 25th and 26th September, 1988. However, wages were not paid to the workers for all these days from 23rd to 26th September, 1988.

(23) Witness DWU 23.—Shri Ramnaresh, Tub Loader, Sukri Colliery, stated that coal could not move to surface as there was fall in section 2 junction. However, payment was received by the Tub Loaders.

(24) Witness DWU 24.—Shri Rafiq Ahmad, Mechanical Fitter, Sukri Collieries, stated that coal production did not come up to surface as there was Gas in one section and the workmen were deployed

to prepare another section. Tub loaders loaded at face and unloaded at some distance. There was flag planted near bunker. There was also fall therefore tubs were unloaded underground and they were engaged on levelling the mine.

(25) Witness DWU 25.—Shri Munib Khan, T. Mistri, Sukri Colliery, stated that payment was made to loaders.

(26) Witness DWU 26.—Shri Tulsiram, Overman, Mohan Colliery, stated that coal production did not take place as dumper route was jammed by INTUC Union. Wages were not paid. Alternate jobs like timber support, cleaning, material transport, sand transport, transporting bricks, were extracted from workers.

(27) Witness DWU 27.—Shri Naresh Kumar, Lamp Charger, Mohan Colliery, stated that workmen took lamp as usual and went down the mine. He further stated that essential category workers paid only two days wages.

(Serial Nos. 28, 29 and 30 are missing.)

(31) Witness DWU 31.—Shri Ramcharan Indrapal, Mining Sirdar, Eklehara Colliery, stated that the workers worked under him, were not paid. They were not on strike. Coal was blasted. Dressers holed short fireers shot holes, loaders removed coal. Alternative work was given by superiors. No coal was raised i.e. not sent on surface as movement of tubs was not there. Superiors conveyed that loaders were not paid as there was no raising of coal.

(32) Witness DWU 32.—Shri Rajbali Hardayal, Tub Loader, Chandameta Colliery No. 6, stated that there was strike on 23rd to 26th May, 1988. I loaded coal, blasting took place, but not paid wages. No loaded tubs came on surface. No tub loader was paid wages for concerned days.

(33) Witness DWU 33.—Shri Pitroo Parsu, Clipman, Chandameta Colliery No. 6, stated that no strike was there. Attendance was as usual. Workers worked by taking empties to hand over to another point. Movement of tubs was there in his plot. On subsequent days alternative jobs were done as per orders of the immediate incharge. Tubs movement was not there for loading coal.

(34) Witness DWU 34.—Shri Chote Khan Aji Khan, CCM Driver, Chandameta Colliery No. 6, stated that he worked but not paid. The Asstt. Manager was approached with the grievance of non-payment. The ACM said the reasons of non-payment are known to Higher Officers. He claimed raising was alright. There was flag planted by somebody on line.

(35) Witness DWU 35.—Shri Tirathlal Anarsingh, CCM helper, Chandameta Colliery, stated that the worked on "Bada" pump for dewatering and not paid wages. This has no relationship with raising coal. CCM was not working since last 5 years and therefore pump was asked to be attended. He did not see movement of tubs on surface.

(36) Witness DWU 36.—Shri Ramji Vishwanath, Tub Loader, Eklehara Colliery, stated that he did alternative job of removing coal from face of work, shifting of rails for full shift. However, no wages

were paid. Alternative jobs were done under orders of Mining Sirdar and Overman.

(37) Witness DWU 37.—Shri Haniram Dhurai, Loader, Eklehara Colliery, stated that he did alternative jobs. But he was not paid. There is no condition in appointment nor there is standing order stating that no wages will be paid if raising of coal did not take place. No empty tubs were available. No coal therefore could be loaded.

(38) Witness DWU 38.—Shri Ahmed Elahi, Tub Loader, Eklehara Colliery, stated that on first day tubs were loaded by coal and rest of the time and rest of the two days in question alternative jobs were performed as no empty tubs were supplied. The reasons were ascertained for non-payment of wages. It was told that due to 'no raising of coal' wages were not paid.

(39) Witness DWU 39.—Shri Kishan Singh, Traffic Incharge, Eklehara Colliery, stated that he did supervisory work of loaders. On the concerned days alternative jobs were got performed by loaders. When enquired from Manager about non-payment of wages, it was told that there were orders from the Top Bosses not to pay wages for the said days.

(40) Witness DWU 40.—Shri Mehar Badri, Clipman, Eklehara Colliery, stated that he did alternative jobs for full shift on the concerned days, but not paid wages. It was known on the day of pay day itself that cut in wages for the said days were noticed.

(41) Witness DWU 41.—Shri Vijay Kumar, Overman, Rawanwara Colliery, stated that all the workmen in the shift performed work during whole shift, coal was blasted in the shift and every worker of the shift worked as usual and satisfactorily and no worker refused to obey or refused to work. There was no strike nor there was any agitation at pit mouth on the concerned days and 3 days wages were deducted without any notice whatsoever. Endless haulage did not work and hence production did not take place.

(42) Witness DWU 42.—Shri Shrawankumar, Electrician, Rawanwara Colliery, stated that workers performed alternative jobs when coal did not come up to surface. Whenever piece-rated worker has no work he is invariably given alternative job and he is paid group wages. Deduction in wages was noticed on 10th when wage slip on the day of payment was received by workers concerned.

(43) Witness DWU 43.—Shri Hitoo Lakhraj, Loader, Ghorawari Colliery, stated that he worked loading coal on concerned 23rd September, 1988 first day and on next day line packing was done and on third day coal was loaded by dumper, shifting of line, and sprinkling dust etc. thus alternative work was done in entire shift on orders by the Manager Shri Jalan Sahib. Wages were cut on the day of payment without notice in writing or even oral in this regard.

(44) Witness DWU 44.—Shri Bajori Sukhdas, Operator, T. No. 770, Shiqpuri Opencast No. 1 Colliery, stated that production of coal was not there on the concerned days. Workers performed over burden removal alternative jobs. No wages were paid at all.

(45) Witness DWU 45.—Shri Sheikh Gulab, E.P. Fitter, T. No. 144, Shiwपुरी Opencast No. 1 Colliery, stated that no production was done in Opencast mines. Wages were not paid to all workmen on the concerned three days and no standing orders exist in Colliery.

(46) Witness DWU 46.—Shri Mohanlal, Token Clerk, Chinda Colliery, Pench Area, stated that workers took token and deposited it after shift completion as usual on the concerned four days. There was no agitation, Muster Roll was submitted for September, 1988 as usual without deduction of wages for four days concerned. Wages was paid without any deduction. Tub loading did not take place but alternative jobs were performed by tub loaders as was practice of giving alternative jobs when tub loading was not done.

(47) Witness DWU 47.—Shri Himmanshu Shekar, L.R. Incharge, Rawanwara Colliery, stated that all workers took lamps on the concerned four days and went down the mine with lamps as usual. Loaders, trammers were understood to have not been paid wages for the said four days and wage was cut without any notice. Workers came to know of wage cut when they went to receive payment of wages.

(48) Witness DWU 48.—Shri Rajaram, Token Clerk, Rawanwara Colliery, stated that all workers were issued tokens at the start of the shift and tokens were deposited back after completion of shift and that attendance for all the days including concerned four days was submitted as usual. But wages was cut without any notice whatsoever, while making payment of wages at counter. Coal was raised on 23rd September, 1988 and no raising was there on subsequent days and it was understood that loaders performed alternative jobs.

(49) Witness DWU 49.—Shri Dayaram Mazarsingh, Trammer, Rawanwara Colliery, stated that on the concerned days lamp and token was taken and went down the mine. The shift overman ordered to do alternative jobs which were done during the entire shift, but wages were not paid for the concerned days which was known only on the day of payment, which fact has been reported to the Manager by all the piece-rated workers. The Manager replied "will see afterwards". Wage cut was made without notice whatsoever oral or otherwise. On first day and second day trammer's job was done and during the rest of two days alternative jobs were performed.

(50) Witness DWU 50.—Shri Faizulla Khan, Pit Punshi, EDC Colliery, stated that about 30 mazdoors worked under Pit Munshi as usual. But the workers were not paid wages on the concerned four days. The Manager was reported and the Manager said further action will be taken and it will be made known. Production of coal was taken place but quantity of coal raised was not known.

(51) Witness DWU 51.—Shri Suresh Kumar, Electrical Helper, EDC Colliery, stated that his duty has always been at surface to look after lighting arrangement on surface and also maintenance of quarters, domestic wiring. Wage was cut on the relevant days without any reason or notice whatsoever. This

wage cut was noticed when payment slip was given on the pay day.

(52) Witness DWU 52.—Shri Nanendra Kumar Sharma, Mechanical Foreman, EDC Colliery, stated that about 40 workers worked under his control and all workmen worked as usual on the concerned four days. Pump from surface to main pump underground was taken and charged and pump was commissioned. The workmen worked on this job were not paid wages without any notice etc. Worker was also not issued any letter of "No Work No Pay" as per practice. There was no obstruction on conveyor belt. Complaint was lodged to the Manager, who said all workers were subjected to cut of wages.

(53) Witness DWU 53.—Shri Nabi Khan, Auto Mechanical Fitter, Shiwपुरी Opencast Mine, stated that on the concerned four days coal was not despatched. Heavy machines worked. All concerned workers were given jobs like cleaning machines and its parts on express instructions from supervisors. Excavation Engineers and all workers were paid wages on all the concerned four days and no wage cut took place.

(54) Witness DWU 54.—Shri Ramji Dwivedi, Overman, Mohan Colliery, stated that every workman (of 70 to 80 approximately was) on duty full shift and that there was no strike nor agitation on the concerned four days. No wages were paid, wages cut was without any notice. Workers came to know on payment day. Of 4 days, on first day blasting was done, next day roof fall was there. It was cleared and on other two days alternative jobs were done under the orders of superiors. On complaint to the Manager, he expressed his inability to help in this regard.

(55) Witness DWU 55.—Shri Zanaklal, Foreman, Mohan Colliery, stated that all workers worked full shift. Essential category workers even worked on pumps. However, they were not paid though worked full shift. Wage cut was without any notice whatsoever. There was production on the first day of concerned four days. Complaint was made to the Manager. But he said instructions of wage cut are from higher authorities.

(56) Witness DWU 56.—Shri Gokul Prasad, Electrical Foreman, Mohan Colliery, stated that essential category workers also were not paid their wages for the concerned four days though worked as usual. Wage cut was without notice whatsoever.

(57) Witness DWU 57.—Shri Jardan, Mining Sirdar, Datta West Colliery, stated that he controlled about 50 workers who worked on shifting line, timbering, trammers, loading coal. But they were not paid for the concerned four days. There was production on all the said days.

(58) Witness DWU 58.—Shri Siraj Anwar, Token Clerk, Datta East Colliery, stated that wages of the workers were cut without notice and on 26-9-1988 discussion took place that there was stoppage of work. He admitted stoppage of work in Colliery.

(59) Witness DWU 59.—Shri Manbrhadur, Mining Sirdar, Damua Colliery, stated that, as per Overman's direction, alternative jobs were given to loaders. Yet wages were paid without notice for the concerned

four days. He is not paid wages for four days. The Manager conveyed that wages were not paid as work of loading of coal was not done in colliery.

(60) Witness DWU 60.—Shri Ramjit Bhijah, Tub Munshi, Damua Colliery, has stated that workers did alternative jobs but have not been paid for the concerned four days without any notice etc. Loading of coal was not there as there was no empty tubs available.

(61) Witness DWU 61.—Shri Shiv Prasad, Mining Sirdar, Damua Colliery, has stated that as usual the workers did job of supporting roof as it was normally done, but wages were not paid and no notice was given to workers concerned.

(62) Witness DWU 62.—Shri Hafiz, Tub Loader, Damua Colliery, has stated that the workers performed alternative jobs, but they were not paid wages and no notice was given.

(63) Witness DWU 63.—Shri Halil, Loader, Damua Colliery, has stated that alternative jobs were performed under orders of superiors, but wages were not paid nor any notice was given.

(64) Witness DWU 64.—Witness from Rawanwara Colliery stated that on 23rd, 30 tubs were loaded with coal, tumber face was okayed as per instructions of Overman. Clip-man did work for setting timber and that such other alternative jobs were done on 24th, 25th and 26th under the instructions of Mining Sirdar and/or Overman as usual.

(65) Witness DWU 65.—Shri Bachan, Rawanwara Khas Colliery, has stated that he was DPR and that he loaded coal in tubs on 23rd and performed alternative jobs on all the four days in accordance with instructions given by Overman and further stated that he loaded pipes and transported to the desired places in underground mine and that he was asked to do stacking of coal and also packing of line and the entire shift and on 24th, 25th and 26th September, 1988 but he has not been paid wages for four days in question.

(66) Witness DWU 71.—Shri Dhamman, Tub Loader, Chandameta Colliery, stated that he worked in night shift on all the four days in question and that he had loaded 5 tubs on 23rd and on the next day removed coal shale "Dagan Dhara" and on subsequent days material to extend rail line was collected and line was extended as per instructions from Shri Shukla, Sahib, Shift Manager, and that alternative work was performed because empty tubs were not coming and that on enquiry from Manager as to why alternative work is ordered, the Manager stated that he should not question orders but carry out the same and that he along with other loaders did the alternative work assigned to him along with other loaders and that he did not do any obstruction near lift and that he was neither aware of any obstruction created by any Union and that he was not paid wages for the said four days though worked on those days and that he was not given any memo/letter about informing deduction of his wages and that he came to know of deduction when he went to receive his wages and that on having found wage cut he along with other loaders met Shri Nawab Singh, Manager of Mine to enquire the reason for wage cut and that the Manager Sahib

said to have told loaders that they should not agitate and that they (loaders) will be paid the deducted wages of three days and that on having not received deducted wages, we all loaders lodged the complaint with the Union.

On cross examination of this witness by WCL representative, the witness confirmed that he was not paid wages though he worked and he was not aware of any agitation or obstruction by Union.

(67) Witness DWU 72.—Shri Prem Kumar, Machine Operator, Shivpuri Colliery, has stated that he was deployed on overburden removal on all the days from 23rd to 27th September, 1988 and that he was not aware of any obstructions being created for transporting coal.

(68) Witness DWU 73.—Shri Kailash, Tub Munshi, Newton/Ganpati Colliery stated that on the relevant dates 23rd to 26th September, 1988 he worked in night shift as usual in normal way and that all the said 3 days as per instructions by Overman and Manager blasted coal was clear (dagan Ka Work), timber was got stocked in old area holes were drilled, coal was blasted and "O" form was filled up and Form 4 was given to all those workers who were under his charge as he keeps account of work of tub loaders who were issued Form '4' and worked in working face of coal continued and he was not aware of any obstruction for not hauled coal tubs and that some of the workers worked under him were paid wages and some were not paid and that he complained about non-payment of such workers to Manager of the mine Shri Jain Sahib.

(69) Witness DWU 75.—Shri Ajabrao, Lamp Fitter, Ambada Colliery, Bhawani Incline, stated that he worked as usual on 23rd to 26th September, 1988 and that he has been paid wages and that some of the workers have not been paid wages and workers went on job as usual and that no coal movement was there for which he did not know the reason and that there was no strike or agitation on those days.

(70) Witness DWU 77.—Shri Sitaram, Clerk stated that the work in mine remained as usual on 23rd to 26th September, 1988 and that he was paid wages and that some workers were making complaint in the office and made noise that they were not paid wages though they worked for full 8 hours during these days and that there was no strike, no agitation on those four days.

(71) Witness DWU 78.—Shri Motiram, Pit Munshi, Writer, Sukri Mine stated that he had received lamp from lamp room and he went underground along with other workers and that loaders under his charge loaded tubs and that an entry was made in Form 'O' and daily report as usual and that loaders have been paid wages, but some daily rated workers though worked for 8 hours were not paid their wages and there was no notice etc. about wage cut and that there was no agitation and that there was normalcy and that on the relevant days Section 36 in mine worked as usual, and that loaded tubs were not moving and that he was not aware of the reason for it.

(72) Witness DWU 79.—Shri Yogesh, Clerk, G.M. Office, Kanhan Area, stated that there was hunger

strike by Shri Jawrudin and that due to this agitation of planting Union flag put by INTUC workers and that there was no report of raising of coal on concerned four days.

(73) Witness MW 1.—Shri U. L. Chourasia, Dy. P.M., Newton Sub Area stated that Union official created obstruction by way of planting union flag on haulage track so that the tubs movements were obstructed and that he had not seen himself planting of flag and that he had received such report and that he had a report that workers marked attendance and went underground mine but did not work and that the workers were not paid wages for the days they did not work on the principle of 'No Work No Pay.'

On cross examination the witness admitted that there is no provision of principle of 'No Work No Pay' in the standing orders applicable to the mine and on further cross examination witness also admitted that in case of change of circumstances workers are given alternative jobs and that the witness also described what was change in circumstances i.e. power failure, break down of machinery, and lay off and/or national calamities. The witness admitted in cross examination that only 2 workmen were involved in strike as per 'N' Form report to the Assistant Labour Commissioner (Central) and that he did not remember whether any disciplinary action was taken against them.

(74) Witness MW 4.—Shri A. K. Nema, Safety Officer, Mohan Colliery stated that there was obstruction of planting Union Flag put by INTUC workers and thus the bunker was jammed resulting in stoppage of movement of coal tubs and that no alternative jobs were given to workers who marked attendance went down the underground mine and that as per practice alternative jobs were allotted. When there is major break down of machineries or power supply, or on such circumstances beyond the control of the management, alternative jobs are allotted. He also stated that there is no provision in standing order about giving alternative jobs.

On cross examination the witness stated that no charge sheet was given as per standing orders to the workers for disobeying superiors' instructions or not doing his work. The witness admitted that there was no agitation, shouting slogans by workers. The witness admitted that in first shift on 23rd September, 1988 usual work of coal transport i.e. coal production was done and that none of the workers was on strike on 23rd September, 1988 and he further admitted that pre-intimation was given for wage cut. On further cross-examination the witness admitted that works like timbering, masonry work, maintaining lines and other mining related work were done underground by workmen.

(75) Witness MW 5.—Shri Hardip Singh, Overman, Mohan Colliery, stated that on 23rd September, 1988 work was done in normal as tubs were available and that workers went on their jobs on 24th, 25th and 26th September, 1988 and that there was no shouting of slogans nor there was any agitation and none of the workmen refused to do work and that he recommended full-back wages to the loaders as per practice.

He further stated that when tubs are not received by them and that coal was produced by workers in mines, but tub movement was not there.

On cross examination he stated that coal could not be loaded for want of tubs though enough coal was produced and that workers present were worked and that no worker could be blamed for no production of coal and on cross examination witness further admitted that workmen worked as it was goal section and seam was available and thus enough work was available. Therefore, no alternative job was given and the witness further confirmed in response to WCL's representative that workmen went down the mine and worked on their respective jobs.

(76) Witness MW 6.—Shri Gulam Hansari, P.O. G.M.'s Office, stated that there was obstruction of putting ballis on track and preventing, and the workers recorded their attendance and went down the mine. In reply to a specific question on cross examination by INTUC representative whether the management gave alternative jobs to the workers who were on duty on relevant days, the answer was "yes" and further stated that it was not small number of workers who refused to do the alternative work, it was sizable number of workers who refused to do the alternative jobs.

(77) Witness MW 7.—The witness of EDC Colliery stated that the work on 23rd September, 1988 was normal and that the production was not there on 24th, 25th and 26th September, 1988 due to obstruction on bunker and workers went down the mine after marking attendance. He was not aware whether any alternative job was given and done by workmen and that there was no production on 24th to 26th September, 1988 because of obstruction at the mouth of mine and the workmen were continued that obstruction causing no production amounts to illegal strike and that the workmen will not be paid wages if production did not take place.

On cross examination by INTUC representative, the witness replied specific question as "Is it a fact that the workers who went down the mine were on strike? Ans: They were not directly involved in strike".

(78) Witness MW 13.—Assistant Manager, Bharmori Colliery, stated that work on 23rd September, 1988 was done as usual till 4 P.M. and that on 24th, 25th and 26th September, 1988 the production was not there as there was obstruction created by INTUC activists and that no alternative work was given to those went down the mine after recording their attendance and that on discussion with union who were advised to remove obstruction so that production could be resumed. During the said period workers declined to do so unless they receive instructions from INTUC Union and that only Pump Khalasi alone did their work.

(79) Witness 14.—Shri Mehrete, Manager, Chandametta Colliery, stated that there was obstruction for movement of tubs and production of coal was zero and that he tried to discuss and sort out the matters so that workmen could resume coal production, but it was in vain and that the action of workers resorting to recording attendance and not doing work amounted to strike and that only essential workers like Pump

Khalasi, water supplier, electrician, performed their duties but not paid wages and that no alternative work was arranged for others.

On cross examination the witness admitted that there was production on 23rd September, 1988.

The witness was shown report on strike in Form 'N' sent to the Assistant Labour Commissioner (Central) which showed only 12 workers were directly involved in strike out of 627 workers who were shown as indirectly involved in strike. The witness clarified that 627 workmen were not leading strike but did not do production work.

The witness was further questioned whether he agreed with the statutory report given in statutory daily diary maintained under Mines Act by the Mining Sirdar, Overman. He answered in affirmative, on further cross examination by INTUC representative that in daily diary for 23rd to 26th September, 1988 of the statutory persons viz. mining sirdar, Overman, had shown clearly that on instruction by the management the said workers under their instruction performed alternative jobs under ground the mine like transport and movement, stacking of timber underground mine and rail line packing, cleaning of mine etc. etc. and other general work and the Overman submitted diary to the Manager. In reply the witness said he would generally agree with the diary kept by the Overman. A specific question was posed to the witness that Mining Sirdar, Overman who were produced as witnesses stated that alternative work was asked to be performed by workmen and was accordingly reported in daily diary of the said days. The witness replied to this that he did not wish to reply this question.

In a separate question the witness clarified that such reports are seen by Assistant Managers and in case of discrepancies this is brought to the notice of the Mine Manager.

On questioning whether the allegedly reported discrepancy was brought to his notice, the witness answered in negative.

(80) Witness MW16.—Shri C. R. Sharma, Superintendent of Mines/Manager, Shiopuri Mine, stated that all the workers refused to go on jobs despite appeal from him in 2nd shift on 23rd September, 1988 to 26th September, 1988 and that obstruction by way of putting timber/ballies on track so that no production could be achieved and that despite caution that 8 days wages will be deducted if they do not work and that emergency workers like Token Clerk, Pump Khalasi, etc. however performed their work and that this continued till be deducted if they do not work and that emergency workers like Token Clerk, Pump Khalasi, etc. however performed their work and that this continued till 2nd shift of 26th September, 1988. The witness stated in cross examination that on 23rd September, 1988 second shift the workmen got their attendance marked in register and obtained Cap Lamp but did not go down the mine to do work and that this strike was reported to the Competent Authorities.

On cross examination by Workers' representative, the witness was shown letter No. WCL/Pench/SPM/

UG/88/1032 marked as 'K' as exhibit addressed various authorities it was pointed out that there is no mention that workers were on strike but it mentioned that 5 workmen created obstruction.

The witness replied that the said five workmen were representatives of all those who stopped the work. The witness agreed in cross examination that workmen marked their "in" and "out" in statutory registers "C" and "E". Report on strike to Assistant Labour Commissioner (Central), Chhindwara in Form "N" of I.D. Act indicating 52 workmen out of 900 was shown to be on strike. This was shown to witness and he agreed it to be correct.

It was pointed out to the witness that Overman Shri Laxminarayan had given statement as witness that all the underground workers performed the alternative work assigned to them and that they have not been paid wages. In reply the witness expressed that he did not recollect and said those workers who worked are entitled to wages and that they might have got wages.

The witnesses in cross examination stated that those five workmen creating obstruction were chargesheeted.

(81) Witness MW 18.—Shri B. B. Sharma S/o Shri Charandas, Manager, Damua Colliery, A. B. Incline, stated that obstruction by putting Union Flag was created thus no production of coal that could take place and the workmen marked attendance, took cap lamp, went down the mine and that no alternative work was done though asked them to do so and he did not agree with the report of Shri Shivnath, Mining Sirdar.

(82) Witness MW 19.—Shri Dahariya, Superintendent of Mines, Rakhikol Colliery, stated that he was Assistant Manager of 24-25 Incline Damua and he was informed by trammer that obstruction by planting Union Flag under the bunker was created and that essential materials for safety is not being transported and haulage is stopped.

On cross examination by management he admitted that there was production during the period of strike. The witness stated that workmen went down the mine and after making attendance and did not work and the workers did not do alternative work though assigned to them.

(83) Witness MW 23.—Shri Tiwari, Manager, Nandan 2 Mine, stated that Rajiv Gandhi's photo was placed below bunker on 23-9-1988 causing obstruction from movement of tubs thus total production was brought to a stand still and the workers marked attendance as usual and went down to the mine but they did not perform their jobs and there was no coal production whatsoever.

On cross examination by the INTUC representative, the witness did not agree with report of Mining Sirdar, Overman that alternative work was assigned and performed by them on the four days in question.

(84) Witness MW 24.—Shri Dinesh Kumar, Mines Manager, Ghorawari, stated that INTUC Union planted Flag below bunker and resorted to strike during 23-9-1988 to 26-9-1988 and that supervisory staff

and clerical staff and general shift workers only worked and all those concerned with production work could not work for want of supply of empty tubs.

The witness stated in cross examination that he was not aware of alternative work having been performed and that there was shouting of slogans urging workers not to work.

On cross examination by INTUC, the witness was asked whether due to non-availability of tubs workers did perform alternative jobs like cleaning area, track, timber supporting, machine shifting and other safety relating work. The answer was that the skilled workers refused to do alternative jobs like chain cleaning. The witness avoided direct reply whether works specifically mentioned were not done. The witness also did not reply another question on cross examination whether all the S.D.L. Operators though worked were not paid their wages. He replied that he was not aware of it.

(85) Witness MW 25.—Shri Ashok Sirkar, Assistant Manager, Rakhikol Colliery, 33-34 Mines, stated that the INTUC Union planted flag below the bunker which created obstruction and caused stopping of production during 23rd to 26th September, 1988 and the workers presented for work but due to obstruction production work could not be possible to be done.

The witness in cross examination stated that no alternative work was performed during the period. Further question was posed that Shri M. Hanif and Shri Kailash of 33-34 Mine stated that during the course of their duty alternative jobs like support, line packing etc. was given to the workers who did the same and details thereof were recorded in the statutory diary of Mining Sirdar and Overman. Whether this is a fact, the witness replied that he was not aware of what was detailed in the diary. The witness admitted on cross examination that workers job are got done through supervisory staff only and that on the said three days too the Supervisory Staff job work done.

The witness replied in negative when he was asked whether there was any doubts on the work got performed by the Supervisory Staff. The witness was asked whether this position proved that alternative work was performed. He avoided to, give any reply.

To seek clarification, asked him to whether diary kept by Overman, Mining Sirdar are vigilantly seen as per law and whether he had scrutinised it. The witness said, since there was no production diary was not seen carefully on these three days relevant to us and on further question the witness admitted that tubs were loaded whole day on 23rd September, 1988 and but he was not aware whether the loaders were paid wages for that day.

(86) Witness MW 26.—Shri B. Prasad, Senior Deputy Manager, Gorawari Colliery, stated that activist of INTUC planted union flag below bunker and slogan shouting was going on and that he went down the mine on 23rd September, 1988 and had seen that tubs were loaded but same were not allowed to be hauled up for its movement and hence there was no

production whatsoever taken place, and that during 23rd September, 1988 first shift to 26th September, 1988 first shift workers marked attendance, sat without doing work and despite our appeal the workers did not work. In cross examination the witness stated that the workers did not perform even alternative work and that the contents of diary of Overman, Mining Sirdar are not true and that he did not remember what remarks he made against the diary contents and that he did not remember if workers were paid wages for work of 23rd September, 1988 though the workers worked on 23rd September, 1988.

(87) Witness MW 29.—Shri Renu Kewal, Overman, Bhameri Incline, Amabada Colliery, stated that during 23rd to 26th September, 1988 at around 9 A.M. Rajiv Gandhi's photo was put under the bunker, on 23-9-1988, creating obstruction by the INTUC Union Officials. On 23rd September, 1988 morning in the first shift production work commenced as usual and coal was loaded in tubs but tubs could not move due to obstruction. The production of coal could not be done because of non-availability of empty tubs till 26th September, 1988 first shift. The witness added despite this position workers performed alternative jobs like roof support, line packing, ventilation work.

In cross examination by WCL's representative the witness confirmed the fact that the workmen did alternative jobs.

(88) Witness MW 31.—Shri Ashok Bajpai, Attendance Clerk, stated that during 23rd to 26th September, 1988 he was posted in Damua Colliery as Attendance Clerk. On 23rd September, 1988 at 4 P.M. he was informed by his co-worker that INTUC activists planted Union flag below the bunker and production is stopped. When he went to his shift, machine fitter and Electrical fitter and 4 Pump Khalasis came to record their attendance and they went to underground mine as usual and all surface workers got their attendance recorded and went on job as usual and that there was an appeal notice urging workers to go on job else the management can deduct 8 days wages. The witness stated that Shri Shiva Prasad, Mining Sirdar, went down the mine.

(89) Witness MW 32.—Shri Krishna Rao, Token Clerk, Rakhikol Colliery, stated that workmen got their attendance and they came out of mine and got marked 'out' as usual and that some workmen got marked their attendance and some workers were loitering here and there.

In cross examination, the witness stated that those loitering workers did not belong to different shifts and there was crowd near pit mouth.

(90) Witness MW 33.—Shri M. Hanif, Overman, (President, BMS Union), Rakhikol Colliery stated that during 23rd to 26th September, 1988 when he was coming to duty on 23rd September, 1988 at 8.30 A.M. he saw INTUC Union flag was planted in the middle of road and when he reached Pit Top for duty he saw INTUC Union flag being planted below bunker by INTUC Union's activities and among those persons Rakhikol Colliery workers and they were shouting slogans and entire atmosphere was full of

agitated one but there was no force or stopping workers from going to work. When he tried to arrange his shift worker, refused to go to their work and large number of workmen by the time left after lifting the tokens, but workers were loitering and they sat till 5 P.M. on 23-9-1988 and while setting those workers who were allotted jobs they did not work and therefore who were allotted alternative work they too did not do their work and a few refused to do any work and that he had 84-85 workers in his shift and that he reported to Shift Incharge at 9.30 AM about this and this position continued till 26th first shift and that the normalcy was restored by 27th September, 1988.

The witness in his examination by WCL representative stated that Shift Incharge, Manager and he himself appealed on 23rd September, 1988 to the present workers that they should resume work and do the work and wherever alternative work was assigned they should do that failing which they will not be paid wages on the principle of 'No Work No Pay' and that on 24th September, 1988 the management also put an appeal like this on the notice board.

On cross examination by INTUC Representative witness stated that majority of his shift workers belonged to INTUC and few belonged to other Unions and that such of them accepted alternative jobs and did it while a few among them did not perform alternative jobs.

On further cross examination the witness replied as he did know even one name of a worker of Rakhikol Colliery, who had been served a charge sheet for an act of disobeying orders of superiors i.e. not doing alternative jobs or not doing work.

In another question by INTUC in the cross examination, the witness was asked whether those workers of first shift have been paid wages, the witness replied in affirmative. The witness also replied that Memos were issued stating "No work no pay" to those who had not performed alternative job/work. When witness was asked to cite or give or state atleast one such name of worker of Rakhikol Colliery and in reply the witness stated one name "Shri Kalicharan, Loader". The witness was pointed out the fact by cross examination that Shri Kalicharan, Loader, did not work at all in the first shift of the witness. And when this fact was pointed out the witness claimed that he was looking after the shift of one Shri Shivhare, Overman under whom Shri Kalicharan worked. The witness was told that Shri Shivhare, Overman did not work in the first shift on 23-9-1988 and Shri Shivhare was either on leave or he was in second shift or so.

The witness was further grilled by cross examination when the witness replied that he does not remember the date properly when Shri Shivhare, Overman worked or on leave and thereafter the witness stated further that he did not perform duty of Shri Shivhare's shift. The witness replied that he did not remember whether Shri Kalicharan, Tub Loader, has worked in his shift.

When it was brought to the notice of witness in the cross examination, Shri Kalicharan Loader himself said he did not receive any memo, show cause notice or letter indicating "No Work No Pay". The witness reacted and stated that enquiry from Colliery

Token Clerk could prove his statement. The witness was confronted with separately recorded statements of Colliery Token Clerks Shri Kailash, Shri Gopal stating that none of the workmen in Rakhikol Colliery was issued any type of letter etc. about 'No Work No Pay'. The witness replied that he did not know why token clerks gave this statement.

Arbitrator's view :

I feel this witness gave statement of contradictions with extraneous consideration. His conduct smacked of Trade Union rivalry. I reject this witness's entire statement.

(91) Witness MW 34.—Shri Yakub, Lamp Room Incharge, Rakhikol Colliery stated that when he went on duty on 23rd September, 1988 at 9 A.M. he found workers got token and came to collect Cap Lamp and he issued lamps and that some workers returned lamp after canceling their attendance and that they joined strikers and some workers who went on job returned as informed by respective incharge personnel and there was strike atmosphere and that nobody prevented willing workers from going to job and that he saw himself an INTUC Union Flag was planted below bunker and the management put up an appeal that the strike was illegal and those who participate in that strike their 8 days wages will be cut.

On cross examination by workers representative the witness replied in affirmative the question whether all the tub loaders went down the mine and returned lamps after end of day's work. The witness stated in reply to cross examination that about 60 workers returned lamp and that the total present workmen's strength of first shift was 200 approximate in Rakhikol Colliery.

The witness in cross examination stated all those workers belonging to 2nd and 3rd shift marked attendance and went down the mine.

(92) Witness MW 39.—Shri Mohan K. Gupta, Assistant Manager, Pit Incharge, Mohan Colliery Incline Pit, stated that on 23rd September, 1988 at 8.30 A.M. the INTUC Union activists planted Flag of Union on haulage road and barrier was put on transportation line and stopped production in the mine. In first shift on 23rd September, 1988 production i.e. some loading of tubs took place and in second shift on 23-9-1988 barring essential works other works relating to production were stopped.

On cross examination the witness admitted that on 23rd September, 1988 in first shift no worker underground and others reporting attendance was on strike and it was admitted that the workers on all the days on 23rd to 26th September, 1988 got marked their attendance as usual and that no worker refused to do work.

32. The notification dated 6th July, 1990 of Government of India under consideration orders reference to decide whether demand for payment of wages for period of strikes from 23rd to 26th September, 1988 is legal and justified. The points to be looked into will be whether there was strike during the period of 23rd to 26th September, 1988 and in this situation the reasons for it has to be examined. It is admitted

by both the parties that there was no strike as there was no notice of strike given by the workmen representing INTUC nor there was given any formal demand of workers representative INTUC nor there existed any threat of strike or agitation which might lead to strike. The arguments however revealed that there had been dissatisfaction and/or unhappiness over certain issues and decision taken by WCL HQ and, therefore, the INTUC officials for some time before the period of 23rd to 26th September, 1988 raised the issues related to introduction of 45 cft. and above size of the tubs to be used underground the mines. This was the only reason for causing launching of an agitation by INTUC in the form of no production. This was not declared openly by INTUC but it was clear that all the union officials took decision of creating obstruction of movement of tubs movements. I do not feel it is necessary to go into merits and demerits of the issue of introduction of size of tubs and the decision taken on by the WCL HQ., Nagpur. Neither of the parties to the dispute desired me to deal on this premises though both of the parties elaborately dealt with in their lengthy arguments filed before me. It is interesting to note that none of the parties to the dispute discuss this area while framing issues on 15th October, 1990 when the matter of framing of issues consumed the entire day of 15th October, 1990 for arguments and counter-arguments.

33. When we look into physical situation we find there was no strike notice/union's demand and therefore there was no prima facie legally speaking there appeared no strike as such and the INTUC repeatedly cried hoarse "there was no strike". Let us examine the definition of strike which WCL in argument mentioned that there was concerted action on the part of workers under instigation by INTUC to refuse to work with common intention to stop production work and the action on the part of workmen amounted to a strike within the meaning of the definition 'strike' laid down under sub-section (a) of Section 2 of the I.D. Act, 1947 (hereinafter referred to as "Act"). It is proved by the evidence given by a large number of witnesses that the workmen did not do production of coal. I observed from witnesses' statement that the action was not confined to one category like loaders. The WCL failed to bring evidence to prove that the workers refused to do the work assigned to them. On the contrary the INTUC brought on record to prove the workmen did not refuse work but carried out the work assigned to them by their immediate supervisors like Overman and Mining Sirdar and INTUC proved that Overman's diary being statutory record under Mines Act showed these facts. WCL failed to disprove it.

34. The element of refusal by Workmen to do the assigned work was totally absent. This shows that the definition of strike is not satisfied. Therefore the argument of WCL's stand does not survive. It would be therefore not legal to hold that there was strike during the period of 23rd to 26th September, 1988.

35. The WCL did not bring anything on record to prove that there was instigation on the part of INTUC or its Union Officials and there were slogans to urge workers not to work or there was situation of preventing willing workers to go on their job or for

doing their jobs. Since there had not been brought anything on record before me to prove instigation by INTUC took place, the view of WCL cannot stand on this score. The employer must establish either by holding a proper domestic enquiry that INTUC or its officials indulged in the act of instigation etc. This view is found in the case reported in (1987) Lab. I.C. 607 Coca Cola Factory Workers Union -vs- Punjab Beverages P. Ltd.

36. The evidence before me did not show that there was general strike in both the Areas as contended in their arguments by the WCL. It is interesting to note that the WCL sent (Exhibit 'T') situation report in Form 'N' prescribed under the I.D. (C) Rules to the Assistant Labour Commissioner (C), Chhindwara (M.P.) among others indicated clearly the number of workmen on strike i.e. directly/indirectly involved and also the strength of each of the units involved in reported strike during the period of 23rd to 26th September 1988. The contents of report in Form 'N' show the facts otherwise that there was no general strike in both the Areas of WCL. I quote an instance. See Exh. W 9 to prove that there are reported to be 9 (nine) units in Kanhan Area and there were 23 units in Pench Area. Normal employment is 14506 out of which 176 workers were reported to be on strike during the period in question. This is evident from the exhibit filed by WCL marked 'T' which is a copy of report in Form 'N' submitted by WCL to the Assistant Labour Commissioner (Central) Chhindwara (M.P.) amongst other authorities as required under the statute. This exhibit further shows that there was no strike at all in 11 units (out of 23). This document exhibited has been discussed elsewhere in this report. There is foot note reading as in this report in Form 'N' that during the period the work of overburden removal was done. This microscopic number of workmen who were reported to be on strike in fact do not seem to be real strikers. If at all these workmen were on strike which was illegal, then WCL could have easily taken disciplinary action quickly under the Standing Orders to find out the truth. WCL did not take such action for the reasons best known to them. It was also reported (see Exhibit W 9) in Form 'N' that there was strike resorted by 2 (two) workers out of strength of 2024 workmen of Ghora-wari Colliery and 6 (six) workers were reported on strike out of the strength of 1545 of Ambara Colliery.

37. In view of the evidence and records brought before me I hold there was no general strike during the period from 23rd to 26th September, 1988 in the Pench and Kanhan Areas of WCL. I answer the Issue No. 1 accordingly.

38. The issue No. 3 being whether the workers refused to work or refused to carry out orders/instructions of superiors could be clubbed here instead of treating it separately as it has been discussed in immediate foregoing paras. It would be convenient to examine the points for discussion. Both the parties produced 124 witnesses during the course of proceedings. All the 83 witnesses of workers representing INTUC without exception stated that none of them refused to do any work assigned to them by their superiors during the period in question. A good number of supervisory staff i.e. Overman and Mining Sirdars working in different units of WCL were exa-

mined and cross-examined by WCL. They consistently stated that no worker refused to do the work i.e. alternative work assigned to them. Interestingly enough 41 witnesses produced by WCL too did not state that any worker refused instructions/orders of superiors for doing work. WCL did not bring out before me an evidence to prove that the workers refused to carry out their instructions/orders whenever given to them by their superiors. I have discussed, analysed the statement of witnesses and recorded in separately the statement of witnesses in foregoing paras. Under the circumstances, WCL did not establish that any worker refused to carry out superiors orders during the period in question. I answer the issue No. 3 in negative in view of the above discussion.

39. Issue No. 5. Whether there was production in the Colliery ? If not what were the reasons?

For the sake of convenience I take issue No. 5 for discussion and decision. On the 23rd September, 1988 in all the collieries admittedly coal was loaded in tubs as usual and in the first shift on 23rd September, 1988 in all the collieries work was not affected adversely. It was not denied by WCL that the coal production did not take place on 23rd September, 1988. The WCL did not file any record and/or data to prove that the production was not done on 23rd September, 1988. All the witnesses confirmed that workmen worked as usual way on 23rd September, 1988. The WCL did not place before me any record to disprove the statement of witnesses. Thus the production on 23rd September, 1988 was normal.

39.1 On 24th, 25th and 26th September, 1988 there was no production of coal due to disruption of movements of tubs and supply of empty tubs to loaders. The evidence emerged from the statements of witnesses produced by both the parties to dispute before me showed that there was created obstruction by way of planting union flag below bunker or in the middle of haulage road and/or placing photo of late Rajiv Gandhi in the path/road of movement of coal tubs. Planting of Union Flag took place by a few activists of the INTUC Union either in the morning on 23rd September, 1988 or in the afternoon of that day as is evident from the statement of witnesses. It has also been made before me through the statement of some of the witnesses that at few collieries a barrier by putting balli/wooden pole around the bunker to obstruct the movement of tubs. The statements of witnesses produced by WCL involving senior ranking officers like Mine Manager, Deputy Superintendent of Mines, Deputy Sub Area Manager etc. revealed that obstruction was created and attempts were made to persuade workers to go to their jobs. I find none of the management official put a slightest efforts to remove obstruction i.e. union flag or photo of late Shri Rajiv Gandhi. Security staff could have been put to service for just removing respective obstructions from the place of bunker to allow tub traffic of tubs. They could have easily removed Photo of national leader from middle of road to better site near road. This could have added respect to national leader.

39.2 Besides this, it is not understood as to why WCL officials could not identify flag planters and

proceeded against them under the Standing Orders for indisciplined behaviour. The INTUC encouraged indiscipline which should have been taken up and handled with firm hand. The entire WCL management appears to have abdicated their duty and remained silent spectators. This passive attitude of WCL resulted in allowing of total stoppage of movement of tubs responsibility for which has to be shared by WCL itself. The reasons for suspension of movement of tubs lies partly on the shoulders of officers of WCL along with the INTUC activists. The issue No. 5 is not to me, directly related to the reference ordered by the Government of India for my decision. But the discussion with the parties expected me to decide it. Hence this is discussed. Hence the issue No. 5 is answered that there was production on 23rd September, 1988 as explained in previous paras and that there was, however, no production of coal during the days i.e. on 24th, 25th and 26th September, 1988 first shift due to non-availability of tubs to loaders on the relevant days due to the circumstances created by INTUC and allowed to continue by WCL by their inaction or adopting passive attitude to the problem. That the reasons could be identified in this regard in this manner. The issue stands answered accordingly.

40. Issue No. 6 - Whether the workmen are entitled to wages for the period merely because they had marked their attendance but did not work ?

All the workmen marked attendance, also the workmen going down the mine got cap lamp issued as usual. The witnesses produced by both the parties i.e. WCL and INTUC confirmed without an exception in their statement stated that the workers got their attendance marked in the statutory attendance register within 'in' and 'out' column in the said statutory registers maintained under the Mines Act. True copies (xerox copies) covering the period 23rd to 26th September, 1988 were filed before me. I had placed it as Exhibit W-6 and I have verified the factual positions from its contents. It is a fact that all the workmen presented physically at the time office got attendance marked, lifted tokens and also cap lamps and went down the underground mine.

40.1 The important point is whether they had worked underground at their work place. It is revealed from the statements of almost all the witnesses, marked as "DWU" produced by INTUC that the workmen worked on loading tubs on 23-9-1988 and on other days they were assigned by Overman and Mining Sirdar alternative jobs like transporting timber, roof timber support, cleaning lines, cleaning chains and extending tub lines and some places blasted coal, removal of shale and essential workers performed their essential jobs like pumping water, electrical work etc. The INTUC invited my attention to the xerox copy of document marked as Exhibit W (2 pages) being Tub Fitter's report, copies of extract of diary of certain Overman and of Mining Sirdars. I find from Tub Fitter's report that no production of coal and loading it was possible because there could not be made available empty tubs.

40.2 The WCL representative on 10-2-1991 filed to show specific reports, xerox copies of routine reports made by relevant Overman in respect of work

done underground on 24-9-1988. This document signed by Overman and seen by Managers etc. The report is extracted. It reads as under :

“Overman Shri Ram, Pench East Colliery. 1 shift, 20 Dip. Date 24-9-88. He had 19 workmen under his charge. Loaded total 20 tubs. INTUC planted flag. Haulage not worked. Empties not available.

Note.—No empties made available in time. Load is reduced. Raising is reduced. No tub came from surface. On 23 LE line packing and 22 L stocked rejects, collected shale on ground.”

This report is countersigned by all senior supervisors of the mine.

Pench East 21 Dip Colliery. 1 shift on 24-9-1988. Shri Bhagirath, Overman. He had 22 workers under him. Reported 21 tubs. Raising, loading was less because empties were not supplied. Flag INTUC planted. Haulage did not work.

Date : 23-9-88. Pench East, Dip, 21, 1 shift. Shri Dashrath, Overman, 18 workers under him “loaded 35 tubs coal. Loaders did not load though coal was available.”

40.3 The above reports were placed before me by WCL. These reports revealed the loaders worked on the relevant days and they did perform alternative jobs.

40.4 Thus it cannot be said that the workmen did not work. It also revealed that the workers did not give optimum production or did give less production as compared to normal work load.

40.5 The WCL failed to bring any other records to prove that the workers marked attendance and they did not work. INTUC brought before me the factum that workers marked attendance and went down the mine and performed alternative jobs on the days in question and they proved by producing witnesses all are marked as “DWU”. The WCL did not bring out any record to disprove this position. I have already discussed in foregoing para that the statutory report in Form ‘N’ showed that the overburden was removed on the relevant days on which strike was alleged. This shows jobs other than loading of coal was done. Keeping in view of this position, I hold the records of the case produced by WCL and the witnesses of INTUC, do not help to prove the contention of the WCL that the workmen marked attendance and went down the mine and did not work. The facts showed that the workmen performed alternative jobs as assigned of them by their respective immediate supervisors’ like Overman, Mining Sirdar who gave instructions as usual.

40.6 I, therefore, answer the issue No. 6 accordingly.

41. Issues Nos. 2 and 4.—These issues are taken together for discussion as there has been involved common elements in these issues. It reads—

“(2) Whether the management in Pench and Kanhan areas deducted wages of the employed persons for the period of 23rd to 26th September, 1988 ? and

(4) Whether the employed persons were not paid or denied wages for the period in question ?”

41.1 In fact it was not necessary to prove these two issues separately. On insistence of representatives of both the parties, separate issues were framed. The answer to the issues has to be whether the workmen’s wages were deducted/not paid/denied. The period in question is 23rd to 26th September, 1988.

41.2 I answered the questions that there was no strike during the period in question. I also answer the question that workmen got marked their attendance and performed their work as available and also performed alternative work assigned to them by their respective supervisory staff during the period in question. In view of this situation it was not justified as proper to deny remuneration for the work got done during the period in question. Therefore, denial of wages by WCL is not allowed.

41.3 The witnesses produced by INTUC in one voice stated in their statements that they had not been paid wages to those workers who performed alternative jobs. The witnesses produced before me by WCL admitted that the workers were not paid wages for the period in question. The contention of the WCL that the workmen failed to do work of their category, does not hold much water because the said jobs were not made available by WCL. The WCL nowhere proved that worker refused to do work assigned to them. The WCL repeatedly stated that the workers who got marked their attendance but did not do the job of their designation have not been paid on the principle of “No Work No Pay”. This shows that those who did work of alternative jobs assigned to them by their immediate supervisors have not been paid wages for the period in question.

41.4 Since the workers have performed their jobs assigned to them, there is no reason to deny them wages. The INTUC during the course of argument submitted that wages bill for the period in question was prepared but the amount was reduced/deducted to the extent of the period in question.

41.5 I have already discussed and come to the conclusion that all the workmen in almost all the collieries had worked on 23rd September, 1988. This being the position the WCL had deducted/denied wages for, this 23rd September, 1988, the WCL cannot deduct the wages for 23rd September, 1988.

41.6 Another point needs to be decided that whether workmen could be denied their wages particularly when the workmen did not perform the job of their designation. As discussed in the foregoing paras, I held that since doing of alternative jobs during the period was admitted fact, the WCL cannot deny them their wages for the period 24th to 26th September, 1988. The WCL similarly cannot deduct wages for the period in question. I found from discussions that WCL denied wages and/or deducted wages of workmen for the period in question. This action on the part of WCL is not justified and not legal too.

41.7 I answer these issues accordingly.

42. The WCL argued that deduction has been made as per Payment of Wages Act, 1936 and nothing was

wrong in doing so. The WCL explained in their written argument dated 15-2-2001 in para 13 on page 4. However, INTUC argued that wages is a property of workmen and denial of wages amounts to dispossessing property without process of law. I agree with him on this issue as this issue has been decided by various judicial pronouncements. It has been contended by the INTUC that the WCL did not follow the procedure and/or process of law to be adopted in this case and that process of law has been laid down in detail under the Payment of Wages Act, 1936 read with Payment of Wages (Mines) Rules, 1956, according to which there must be notice given to the affected workmen and this can be done only in case of a unit/colliery which has got Certified Standing Orders as per Section 9 of Payment of Wages Act read with Rule 14 of Payment of Wages (Mines) Rules, 1956. The procedure under law is elaborate.

42.1 Let us examine the provisions of law to appreciate arguments of parties. In case any deduction of wages for absence from duty is to be made. I find that procedure is laid down under Section 9 of the Payment of Wages Act, read with Rule 14 of the Payment of Wages (Mines) Rules. I find it is mandatory and it has, therefore, to be followed without any exception. According to Section 9(i) of the Payment of Wages Act, deduction can be made on account of absence of an employed person from the place whereby the terms of his employment, he is required to work. The explanation under Section 9 of the said Act says that employed person deemed to be absent from the place where he is required to work, if though present, refuses to carry out his work in pursuance of a stay in strike or for any other cause which is not reasonable for the circumstances. Rule 14 of Payment of Wages (Mines) Rules, 1956 laid down the procedure in imposing deductions as is evident from its title itself. It says, no deduction shall be made from wages of any person employed in a mine except in accordance with the procedure laid down in the rule and regulations or certified standing orders in force in the mine and no deductions made from the wages until the employed person has been given an opportunity in writing of showing cause against such deduction.

42.2 There are no two opinions that the management of WCL has inherent right to deduct wages from employed persons and this right is recognised by the statute relevant to the period i.e. Payment of Wages Act, 1936. The statute regulated this right of employer. The employed person is duty bound to work as per terms of employment and that he is not at liberty to refuse to work merely by attending the duty in the form of marking attendance and go scot free. The statute lays down that the employed person should be present and should have refused to work for reasonable cause and after having satisfied this area, the employer is under obligation to give written notice/show cause to the employed person who are to be subjected to deduction, of course, this has to be done in accordance with the rules and regulations or certified standing orders in force in the mine.

42.3 The contention of WCL had been that the workmen employed marked attendance, got cap lamps and went down mine to respective work place but

they do not do the work of their categories. This is admitted position. The employed persons went down the mine but could not do their jobs due to circumstances beyond their control. To clarify further that a tub loader, trammer was ready to do his job of loading tubs but empties were not made available, perhaps no coal face was there for dresser. It is interesting that it is proved that all the underground workmen worked as usual on 23rd September, 1988, still wages were not paid or wages were deducted. During the course of argument, WCL representative could not give any satisfactory reply as to why wages for 23rd September, 1988 have not been paid. INTUC insistently submitted that in all the units workmen worked as is obvious from the records of WCL itself.

42.4 WCL representative contended that workmen were on strike for the entire period in question. This does not, I find substantiate the reality. I have held in foregoing paras that there was no strike during the period in question. Reverting to the point whether the workmen employed presented at work place but did not do their category jobs, INTUC representative proved by producing witnesses that the since relevant job was not available they performed alternative jobs as assigned to them by their superiors/supervisory staff as usual. I find from the records Form 'N' for Pench Area placed before me, WCL made alternative jobs available. The remarks on foot note reads as "over hurden was removed in the period in question and there was no coal face exposed at that time. This is as per usual practice". This being the position, the question of expecting workmen to do the job of their category did not arise. Thus it has been proved that workmen did alternative job.

43.5 The representative of WCL failed to prove that the employed persons did not do the jobs assigned to them as usual by their immediate supervisors. WCL failed to prove that a single worker refused to carry out instructions given by the supervisory staff. On the contrary the INTUC representative proved by producing a good number of witnesses marked "DWU" placed separately on file. The WCL produced 45 witnesses marked as "MW" for examination. I observed that none of the witnesses stated that there was refusal by workmen to carry out the work assigned to them by immediate supervisors. WCL's statement in the written arguments in para 16.16, pages 4, 5 does not help. In the situation I find unless refusal to do the work is proved, Section 9 of Payment of Wages Act will not be of any help to WCL. I find the case law (1990 II LLJ) quoted by WCL in para 19 on pages 6 to 9 also does not help them as facts herein are different and as it is not proved that any worker refused to do work assigned to them by their supervisors.

43.6 There had been, I find, no refusal to work from the persons employed who had been subjected to deduction of wages for the period in question by the WCL management. The INTUC vehemently argued and made contention that no workman who was subjected to deduction was given notice or asked to show cause why deduction should not be effected as required under mandatory provisions laid down under the Payment of Wages Act, 1936 read with Payment of Wages (Mines) Rules, 1956. The WCL contended

that a notice in general was put up on notice board that those who do not work shall not be paid wages on the principle of 'No Work No Pay'. I am satisfied that such notice was displayed on notice board of the mine.

43.7 I do not agree with the INTUC's statement in para 20, that no notice was given. It is proved that notice to caution workers was given. I also do not agree with INTUC that WCL violated Section 9-A of Payment of Wages Act. This notice would not satisfy the requirement of law i.e. Rule 14 of Payment of Wages (Mines) Rules. Even the spirit of Rule is not satisfied. The management of WCL is empowered to give notice when there is a provision in Rules, Regulation and certified standing orders, if the terms of employment made such a provision in the Certified Standing Order, Rules, Regulation. The WCL representative have not brought out any evidence to support their contention of 'No Work No Pay'. If there was provision in terms of employment WCL could have given general show cause notice. This would have been suffice. This view is valid in the light of judicial pronouncement available in case reported in (1976) 2 LLJ at page 247. The general show cause notice was not given.

43.8 The INTUC's complaint is in paras 13, 16, 19 in the written arguments. My investigation revealed that the following collieries did not have certified standing orders during the period in question. That, the WCL did not have any power in this regard to take action of any sort, about deduction of wages :

Nandan 1 and 2, Dhamua, Mahadeo Incline, Chinda, Shiopuri.

43.9 None of the coal mines (new collieries) started operating after nationalisation of Coal Mines had certified standing orders. The management of WCL applied Model Standing Orders. This does not help in any way in this regard.

43.10 The views of INTUC in para 15 of their written argument hold lot of force. I hold it as sustained.

43.11 The position thus has been that the WCL management did not follow the procedure being mandatory under the Payment Wages Act, 1936 for deducting wages for the period in question. I already held that the action of deducting wages was not legal and not justified.

43.12 The terms of reference is whether demand of INTUC for wages for strike period 23rd to 26th September, 1988 is justified. The WCL dealt with in an elaborate manner in their written arguments dated 15-2-2001 detailing i.r. scenario. The INTUC instigated to start agitation stopping work resulting in 'No Production' during the period in question. The INTUC Union admitted in their written argument that there was a peaceful demonstration and contended that there was no strike during the period 23rd to 26th September, 1988. I found that it was not demonstration but it was a peaceful non-cooperation like method adopted with the result coal production was severely hampered and no coal was brought on surface. It is proved

by the statement of witnesses described as "DMU" and "MW", beyond doubt that there was created obstruction for movement of tubs, haulage road, bunker in different manner like planting INTUC Union Flag, wooden logs in bunker, putting national leader's photo in the rail road obstructing movement of tubs. This action no doubt resulted stoppage of movement of tubs on 23rd IInd shift onwards and on 24th to 26th September, 1988.

43.13 The INTUC cannot disown the position that they organised this agitation. This action of the INTUC Union seemed to be an expression of anger over the decision of the WCL in the matter of introduction of small size of tubs 40.5 cft. in Nandan Nos. 1 and 2 mines. This agitation cannot be said or termed to be a strike. The WCL itself did not report it as a strike to the statutory authority. What they reported is microscopic number of workmen involved in strike. I dealt with this point in detail in foregoing paras. The question would crop up whether the agitation in the circumstances was justified.

43.14 Causes for agitation by INTUC.

The WCL in their written arguments dated 15th February, 2001 submitted that WCL held consultations with Unions (various trade unions) operating in the field and decided to increase size of loading tubs used by loaders in the Collieries and size of tubs was depending on thickness of seams of coal and tubs of 45 cft. were already in use in some of the mines while the size of tubs in different mines depending upon thickness of coal seam. The INTUC operated union expressed health hazards for loader for use of 45 cft. tubs in Nandan Mines 45 cft. tubs were already in use. The Union's view had humanitarian consideration. WCL entered into settlement with AITUC Union, and that this signing of settlement enraged INTUC and all other rival unions functioning in the areas. Rival Union including RKKMS (INTUC) and that the WCL was left with no alternative but signed a settlement on 17-1-1988 and subsequent to which WCL signed another settlement on 19-9-1988 with SKMS (AITUC) providing 40.5 cft. tubs in place of 45 cft. tubs to be used in Nandan Mine Nos. 1 and 2 and the INTUC had a strong objection to this settlement dated 19-9-1988 and demanded use of 45 cft. tubs in Nandan Mine Nos. 1 and 2 and that the INTUC agitated for terminating the said settlement with SKMS (AITUC) terming as bad in law, it having entered into without consulting the Steering Committee and other Trade Unions functioning in the said area and that the INTUC agitated over introduction of smaller size tubs in Nandan Nos. 1 and 2 mines and bigger tubs in rest of the mines of the same area and that INTUC went on strike from 23-9-1988 and continued to be so till 26-9-1988 in both the areas i.e. Pench and Kanhan. The WCL's arguments further contained that the workers marked their attendance and were sitting idle and performed no work whatsoever and that since they did not performed the work, the WCL took decision of deducting wages of striking employees for the period they did not perform their respective duties.

43.15 The INTUC in their written argument in para 18, page 4 submitted that there was no strike.

and it was only a peaceful demonstration. The right to demonstrate is an important weapon and is right in the armory of the workmen. This right cannot be snatched by almost all democratic countries and therefore the peaceful demonstration cannot be termed as a strike.

43.16 The INTUC relied on reported judgments of Supreme Court and High Court [AIR 1999 SC, (1988) Lab. I.C. H.C. Cal. Page 1585]. If the management felt it was a strike, then the WCL could have approached the Regional Labour Commissioner (Central), for getting the said demonstration declared as strike. The INTUC further submitted that they being largest and recognised had status of negotiator of workers and held discussions with WCL for improving productivity, production, safety and that for improving productivity it was decided to substitute the smaller size tubs of 40.05 cft. with 45 cft. tubs in all mines including Nandan Mine Nos. 1 and 2, and that introduction of 45 cft. tubs would increase productivity and workers were financially benefitted which fact has been admitted by witness of WCL in cross examination and that all of a sudden on 19-9-1988 without informing other unions or Steering Committee, the management of WCL entered into agreement (DW 5)/settlement with Sanyukta Khadan Mazdoor Sangh (SKMS—AITUC) to smaller size tubs of 40.05 cft. by replacing bigger size tubs i.e. 45 cft. to damage the agreement dated 17-1-1988 with the RKKMS (INTUC) and it may be noted that SKMS (AITUC) enjoyed only 10 per cent of total manpower in Kanhan and Pench Areas and that WCL violated Code of Disciplines and adopted unfair labour practice and the WCL was bound to negotiate policy with major recognised RKKMS (INTUC) Union and that by signing settlement dated 19-9-1988 insulted INTUC and that WCL CMD not only brought down productivity and agreed with AITUC to refund 8 days wages deducted on account of illegal strike by loaders for 32 days and that this matter of illegality was brought to the notice of Chief Labour Commissioner, the Management of WCL agreed by settlement dated 5-11-1988 to make payment of Rs. 125 against four days deductions and that till this day the Management did not recover the said amount of Rs. 125.

43.17 The INTUC Union contended ceaselessly that the workmen performed during 23rd to 26th of September, 1988 their duties assigned to them by their immediate supervisors who used to assign duties to workers in the past in routine manner. The WCL management held the view that the workers went down the mine but did not perform the work of their respective categories, therefore, the workmen are not entitled to wages for the period in question. The INTUC held the view that the WCL illegally decided to deduct the wages for the said period.

44. I hold that even if on the materials on record both conclusions are equally possible or plausible, the conclusion in favour of workers should be preferred. It may be added, if on the materials on record and under the Law of Payment of Wages Act and the case of employer for resorting to wage cut appear to be almost equally balanced, "social justice" would require that the balance be tilted in favour of the employees. My views find support in the case reported

in 1988 LAB. I.C. 1585 which is brought to my notice by INTUC in their arguments. The High Court of Calcutta held as under :

"Whenever the weaker or the poorer section is pitted in forensic combat against the stronger or the richer section, then if two interpretations are reasonably possible, whether of the facts or the laws involved, the interpretation in favour of the former is to be adopted so that "Social Justice" i.e. justice to the weaker or the poorer section of the society, is ensured."

44.1 I had carefully studied the documents before me. The statements given by the large number of witnesses produced by both the parties to the dispute have been analysed with due care. In the written arguments given by the WCL, it is admitted by WCL that there was settlement with INTUC still subsisting and in spite of this situation CMD, WCL signed settlement with the rival union, AITUC, on 19-9-1988. This I feel caused a grave situation involving breach of Code of Discipline. I cannot deny the contention of the INTUC that the WCL Management committed breach of Code of Discipline and committed unfair labour practice. This situation observe, caused agitation by the INTUC from 23rd to 26th September, 1988. The Management of WCL cannot absolve of their responsibility of fair play. The SKMS (AITUC) Union is minority union, still WCL signed settlement dated 19-9-1988. I cannot persuade myself to reject argument of INTUC that productivity was adversely affected i.e. reduced and workers, loaders earning too affected adversely. Hence the INTUC's argument holds lot of strength and ground and I feel it has to be accepted. This being the position WCL indirectly created the position for the INTUC to adopt agitational approach. The INTUC was not unjustified to adopt agitation which was not strike at any rate during the period from 23rd to 26th September, 1988.

44.2 Resorting to agitation by INTUC was to express unhappiness, anger, caused by treatment by the management. The expression by way of agitation is a democratic way which contention INTUC made. I cannot reject it. INTUC placed before me the Supreme Court judgment (AIR 1990 B. R. Singh Vs. Union of India). The relevant point and relevant extract reads as under :

"The right to demonstrate and therefore right to strike is important weapon—This right has been recognised by almost all the democratic countries. Though not raised to the high pedestal of a fundamental right, it is recognised as a mode of redress for resolving the grievances of workers."

The agitation of workers seem to be not misplaced.

44.3 Under the circumstances, I hold the demand of RKKMS (INTUC) for the wages for the period 23rd to 26th September, 1988 is justified and it is not illegal.

44.4 I answer the reference accordingly.

44.5 The management of WCL in Pench and Kanhan Areas shall pay wages to all the workmen

involved for the period from 23rd to 26th September, 1988.

44.6 Parties to bear their own costs.

Encl : as above.

Nagpur.

Dated : 18-8-2001

M. G. WANARE, Arbitrator

नई दिल्ली, 12 सितम्बर, 2001

का.अ. 2691.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार वी. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अन्वेष में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम, 2 धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-9-2001 को प्राप्त हुआ था।

[सं. एल-20012/125/92-आई आर (सी-1)]

एम्. एस. गुप्ता, अवर सचिव

New Delhi, the 12th September, 2001

S.O. 2691.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman which was received by the Central Government on 11-9-2001.

[No. L-20012/125/92-IR(C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (No. 2) AT
DHANBAD

PRESENT :

Shri B. BISWAS, Presiding Officer

In the matter of an Industrial Dispute
under Section 10(1)(d) of the
I.D. Act. 1947.

REFERENCE NO. 28 OF 1993

PARTIES :

Employers in relation to the manage-
ment of Bagdigi Colliery of M/s.
BCCL.

AND

Their Workmen

APPEARANCES :

On behalf of the workman.—Shri S. C.
Gaur, Advocate.

On behalf of the employers.—Shri B.
Joshi, Advocate.

STATE : Jharkhand. INDUSTRY : Coal.

Dated. Dhanbad, the 22nd August, 2001

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(125)/92-I.R. (Coal-1), dated, the 15th April, 1993.

SCHEDULE

“Whether the action of the management of Bagdigi Colliery under Lodna Area of M/s. Bharat Coking Coal Ltd., in dismissing Shri Paras Nath Mishra, CP Loader vide their letter No. BCCL/BC/PER/90/331 dated 28-3-90 is justified ? If not, to what relief the workman is entitled ?”

2. The case of the concerned workman as per W.S. in brief is as follows :—

It has been submitted by the concerned workman that he was an employee of Bagdigi Colliery to the entire satisfaction of the management. He submitted that on 7-4-89 he met an accident while he was on duty and as a result he sustained serious injury to his person and remained under treatment of Company's hospital till 27-4-89. The concerned workman submitted that during the period of his treatment he became a patient of Schizophrenia and left the colliery hospital and thereafter he was treated at Ranchi Mansik Arogyashala Kanke, Ranchi under treatment of Dr. A. K. Gupta from 23-4-89 to 12-10-90. Thereafter when he was declared medically fit came to join but he heard that he was dismissed by the management. He submitted that during the period of his treatment

he did not receive any chargesheet dated 30-11-89 issued by the management against him. He submitted that the said enquiry was done ex parte without his knowledge arbitrarily, illegally and violating the principles of natural justice. He disclosed that his Schizophrenia came into existence only due to the accident met by him while he was on duty under the management and for which the management cannot avoid responsibility not only for his proper treatment but also for reinstatement in his service. Accordingly the concerned workman has prayed for passing necessary Award for his reinstatement in service.

3. The management on the contrary after filing W.S.-cum-rejoinder has denied all the claims and allegations which the concerned workman asserted in his W.S. The management submitted that the concerned workman received some minor injuries while working underground during his duty hours on 7-4-89. He was treated at Colliery Hospital and was referred to Lodna Central Hospital on 22-4-89 for his further treatment. The concerned workman attended for his treatment at the Central Hospital Lodna for some days but did not report to the Medical Officer thereafter. Thereafter he left the Colliery Hospital without information and permission. The concerned workman also did not report to his duties and started absenting from his duties without any permission and without information and without any satisfactory cause. Accordingly a chargesheet dated 30-11-1989 was issued to him when he did not make any correspondence with the management from the month of April 1989 till 30-11-89. The said chargesheet dated 3-11-1989 was sent to the concerned workman at his home address. But it was returned with the remark of the Postal Peon "Refused to accept". Thereafter another letter on 30-11-1989 was sent to the concerned workman by Regd. Post and simultaneously it was also published in the local Newspapers AAZ and JANMAT. But inspite of the publication of the news in the local newspaper the concerned workman did not respond to letter dated 30-11-89 and also did not submit any reply to the chargesheet. Accordingly the management finding no other way appointed an Enquiry Officer to take up enquiry into chargesheet and also appointed the Presenting Officer to present the case of the concerned workman before the Enquiry Officer.

2243 GI/2001—25

Before enquiry, notice of enquiry was also issued to the concerned workman by Registered post dt. 19-12-1989 and the same was also published in the local newspaper AAZ in the publication dt. 23-12-1989. But as the concerned workman did not turn up the Enquiry Officer completed the enquiry ex parte and after completing the enquiry proceeding submitted his report before the disciplinary authority finding the concerned workman guilty of his misconduct and thereafter the disciplinary authority considering all papers of the Enquiry Officer issued the order of dismissal against the concerned workman.

4. Before taking up final hearing of the instant case hearing on preliminary point was taking up to ascertain if the domestic enquiry held by the Enquiry Officer against the concerned workman was fair, proper and in accordance with the principles of natural justice. After hearing both sides an order to that effect was passed on 31-5-2001. According to the observation of the Tribunal the enquiry conducted by the Enquiry Officer was fair, proper and in accordance with the principles of natural justice.

5. Now let us consider whether the order of dismissal passed by the management against the concerned workman was proper or not.

6. It is the contention of the concerned workman that on 7-4-89 in discharge of his duties under the management he met an accident and for which he sustained injury to his person. The management also did not deny this fact. On the contrary the management submitted that immediately for his treatment he was taken to the colliery hospital and thereafter he was removed to Lodna Central Hospital on 22-4-89 for his further treatment. But there the concerned workman without receiving his proper treatment let the hospital of his own accord and without permission or giving any intimation to the authority and thereafter he remained himself absent for a long period and as a result, finding no other way the management issued a chargesheet against the concerned workman on 30-11-89. On the contrary it is the case of the concerned workman that he remained under treatment at Company's hospital upto 27-4-89 but there he became a Schizophrenic patient and that ailment cropped up due to injury sustained by him in discharge of his duties. He submitted that he remained under treatment of Dr.

A. K. Gupta at Ranchi Mansik Arogyasala from 23-4-89 to 12-10-89. Thereafter when he was declared medically fit he came to join his duties but at the time he learnt that he was dismissed by the management arbitrarily and illegally. It is the specific contention of the concerned workman that he remained under treatment of Dr. A. K. Gupta from 23-4-89 to 12-10-89. It is also his specific contention that he was under treatment at Company's hospital till 27-4-89. The Company's hospital is situated at different place from the place where he remained under treatment of Dr. A. K. Gupta. In natural course, the question which will crop up is when the concerned workman remained under treatment at Company's hospital upto 27-4-89 how he could be remained under treatment of Dr. A. K. Gupta from 23-4-89. I think the concerned workman wanted to conceal some important facts in this regard. It is the specific contention of the concerned workman that he became a Schizophrenic patient due to injury sustained by him. The concerned workman during his evidence disclosed that on 12-10-90 when he came to join his duty after his return back from Ranchi on receiving treatment, he heard that he was dismissed from his service. The concerned workman in course of his evidence did not disclose the nature of treatment which he received during the period of his absence. But it is clear from the evidence of the management that since last part of April, 1989 the concerned workman started remaining himself absent without giving any intimation to the management. He also did not consider necessary to submit leave application in the matter of his ailment. No evidence is for the coming before the Court on the part of the concerned workman that he intimated the reasons of his absence to the management. Considering the evidence of the concerned workman it is clear that from 22-4-89 to 12-10-89 he remained under treatment of Dr. A. K. Gupta at Ranchi Mansik Arogyasala Ranchi. Therefore, the concerned workman cannot avoid responsibility to produce relevant medical papers before the Tribunal to justify his claim in the matter of his long absence. There was scope on the part of the Tribunal to see if the management illegally and arbitrarily dismissed the concerned workman from his service inspite of remaining under treatment for a prolonged period which occurred in discharge of his duties. With utter surprise it is seen that the concerned workman inspite of getting opportunities to

produce all medical papers did not consider necessary to produce the same. No reason has been assigned by the concerned workman why he did not consider necessary to produce all the papers. Naturally question will automatically crop up if the concerned workman concealed the truth before the Tribunal in the matter of his ailment.

7. After careful consideration of all the facts and circumstances I hold firmly that fault lies with the concerned workman and for which he has failed to substantiate his claim. The management issued chargesheet after waiting for a long period. As such there is no scope to say that the management hurriedly took any decision in dismissing the concerned workman but the concerned workman inspite of getting opportunities did not consider necessary to take appropriate steps either personally or through his family members to intimate all the facts before the management for their sympathetic consideration. On the contrary it is seen that they remained complete silent and even inspite of issuance of notice on the part of the management the concerned workman did not consider necessary to appear and to make his submission about the matter. Considering all aspects there is sufficient reason to believe that the concerned workman has failed to make out his case cogently and for which I find sufficient reason to hold that the management did not commit any illegally to dismiss him from his service. I also do not find any cogent ground to believe that the management acted arbitrarily and violating the principles of natural justice dismissed the concerned workman from his service. In the result, the following Award is rendered :—

“The action of the management of Bagdigi Colliery under Lodna Area of M/s. Bharat Coking Coal Ltd., in dismissing Shri Paras Nath Mishra C. P. Loader vide their letter No. BCCL/BC/PER/90/331 dt. 28-3-90 is justified. Consequently, the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer

नई दिल्ली, 12 सितम्बर, 2001

का. आ.2692:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईस्को के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 2 घनबाद के

पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-9-01 को प्राप्त हुआ था।

[सं. एल-20012/430/94-आई आर (सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 12th September, 2001

S.O. 2692.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of IISCO and their workman, which was received by the Central Government on 11-9-2001.

[No. L-20012/430/94-IR(C-I)]

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Biswas, Presiding Officer

In the matter of Industrial Dispute under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 144 OF 1995

PARTIES :

Employers in relation to the management of Chasnalla Colliery of M/s. IISCO. Ltd.

AND

Their Workman

APPEARANCES :

On behalf of the workman.—Shri K. N. Singh, Vice President, Janta Mazdoor Sangh.

On behalf of the employers.—Shri B. Joshi, Advocate.

STATE : Jharkhand. INDUSTRY : Coal.
Dated, Dhanbad, the 22nd August, 2001

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act,

1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/430/94-I.R.(Coal-I), dated, the 18th October, 1995.

SCHEDULE

“Whether the action of the management of Chasnalla Colliery of M/s. IISCO. Ltd. in denial of Cat. VI wages to Shri Kayamuddin Ansari, Pass No. 91950 marker in Chasnalla Colliery of M/s. IISCO. Ltd., is justified? If not, to what relief is the workman entitled and from which date?”

2. In this reference both the parties appeared but only the workman side filed the W.S. Subsequently when the case was fixed, a petition was submitted on the said of the workman praying to pass a ‘No dispute’ Award as the instant dispute has already been settled between the workman and the management. I heard both the side on the said petition and no objection was raised on the side of the management if ‘No dispute’ Award is passed in this reference. Accordingly a ‘No dispute’ Award is rendered and the reference is disposed of on the basis of the ‘No dispute’ Award presuming non-existence of any industrial dispute between the parties presently.

B. BISWAS, Presiding Officer

नई दिल्ली, 12 सितम्बर, 2001

का. आ. 2693.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार बी. सी. सी. एल. के प्रबंधकों के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 2 धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-9-2001 को प्राप्त हुआ था।

[सं. एल- 24012/177/86-डी IV (बी)/आई आर (सी-I)]

एस. एस. गुप्ता, अवर सचिव

New Delhi, the 12th September, 2001

S.O. 2693.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Dhanbad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of BCCL and their workman which

was received by the Central Government
11-9-2001.

[No. L-24012|177|86-DIV(B)|IR(C-I)|

S. S. GUPTA, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT :

Shri B. Biswas,

Presiding Officer

In the matter of an Industrial Dispute
under Section 10(1)(d) of the I.D.
Act, 1947.

REFERENCE NO. 154 OF 1987

PARTIES :

Employers in relation to the management
of Bhowra (North) Colliery of
Bhowra Area-XI M/s. Bharat Cok-
ing Coal Limited.

AND

Their Workman

APPEARANCES :

On behalf of the workman.—None.

On behalf of the employers.—None.

STATE : Jharkhand. INDUSTRY : Coal.
Dated, Dhanbad, the 22nd August, 2001

AWARD

The Govt. of India Ministry of Labour,
in exercise of the powers conferred on them
under Section 10(1)(d) of the I.D. Act,
1947 has referred the following dispute to
this Tribunal for adjudication vide their Order
No. L-24012(177)|86-D.IV(B), dated, the
25th May, 1987.

SCHEDULE

“Whether the action of the Management
of Bhowra (North) Colliery of
Bhowra Area XI of M/s. Bharat
Coking Coal Ltd., P.O. Bhowra,
Dist. Dhanbad in dismissing Shri
Pameshwar Gope, D.C.L. from ser-
vice is justified? If not, to what re-
lief the workman concerned is
entitled?”

2. The case of the concerned workman
as per W.S. in brief is as follows :—

The concerned workman in his W.S. sub-
mitted that he was adopted son of Sobran
Gope and the said late Sobran Gope adop-
ted him following the Hindu religious rites
and customs. He submitted that after adop-
tion he was brought up by his father who
adopted him. The concerned workman sub-
mitted that he got employment under the
management after his father Sobran Gope
submitted his voluntary resignation. It has
been alleged by the concerned workman that
after the death of Sobran Gope his wife rais-
ed objection regarding his status and rela-
tionship and raised industrial dispute before
the ALC(C), Dhanbad at the instigation
of some interested persons but the said peti-
tion filed by the widow of Sobran Gope
was rejected. Thereafter widow of Sobran
Gope i.e. Dharni Devi filed a complaint be-
fore the Labour Cell which was also dis-
posed of in his favour. Inspite of all the
facts and circumstances the management
without any reason issued chargesheet against
him on 17-3-86 and thereafter took up
domestic enquiry over his relationship with
Sobran Gope. After domestic enquiry he was
dismissed from service. The concerned
workman submitted that the said order of
dismissal was not fair and proper and it
violated the principles of natural justice.
Accordingly the concerned workman sub-
mitted prayer for reinstatement in service.

3. The management on the contrary after
filing W.S.-cum-rejoinder have denied all the
claims and allegations which the concerned
workman asserted in his W.S. It has been
submitted by the management that the con-
cerned workman entered his service in the
year 1980 in place of one Sobran Gope,
Mechanical Helper of Bhowra (North) Col-
liery under Voluntary Retirement Scheme of
the colliery. While securing the job under
voluntary retirement scheme it was declar-
ed by Sobran Gope and Pameshwar Gope
to the effect that they were by relation father
and son. As voluntary retirement scheme
was in operation and as one of the legal heir
was entitled to get service under the said
scheme the management submitted that they
considered the prayer of Sobran Gope and
appointed Pameshwar Gope as an employee
under them. The management submitted
that under the said scheme nephew was not
permitted to get service in place of a person

who has been retired under voluntary retirement scheme. The management further submitted that Sobran Gope and Pameshwar Gope made a false declaration before enjoying the voluntary retirement scheme and on the basis of that false declaration the concerned workman got his service and it was so done dishonestly with the sole intention of securing employment. The management submitted that the concerned workman was the nephew of Sobran Gope and that came into picture when his widow i.e. Dharni Devi submitted a petition for her employment in place of her husband. Accordingly when that illegality was detected the management chargesheeted the concerned workman vide Chargesheet No. PS/86(N)/CS/26 dated 6-3-1986 issued on 17-3-86 and the concerned workman in reply to the chargesheet admitted that Sobran Gope was his uncle and he was brought up and educated by him like his son. In course of departmental enquiry the concerned workman was found guilty and he was dismissed from service. The management submitted that the claim of the concerned workman finds no basis at all and for which he is not entitled to get any relief.

4. The points for decision in this reference are :—

“Whether the action of the Management of Bhowra (North) Colliery of Bhowra Area-XI of M/s. Bharat Coking Coal Ltd., P.O. Bhowra, Dist Dhanbad in dismissing Shri Pameshwar Gope, D.C.L. from service is justified? If not, to what relief the workman concerned is entitled?”

DECISIONS WITH REASONS

5. It is the specific contention of the concerned workman that Sobran Gope adopted him as his son and he was brought up by him. He also arranged for his education. Disclosing this fact it has been further submitted by the concerned workman that when the management issued Voluntary Retirement Scheme he and his father by whom he was adopted made a joint declaration about their relationship and submitted prayer for his employment being his son and on the basis of that declaration the management employed him. Thereafter Sobran Gope died and his widow Dharni Devi raised industrial

dispute but could not succeed. It is the specific contention of the concerned workman that he was adopted son of Sobran Gope but the contention of the management on the contrary is quite different. The management submitted that the concerned workman was the nephew of Sobran Gope who was their employee and to take the opportunity of voluntary retirement scheme the said Sobran Gope and the concerned workman made a false declaration about their relationship. That false declaration came into lime light when after the death of Sobran Gope his wife Dharni Devi submitted petition for her employment. It was detected that the concerned workman was nephew of Sobran Gope but concealing that relationship he got employment on the basis of voluntary retirement scheme when they submitted false declaration. Accordingly the management issued a chargesheet and in reply to that chargesheet the concerned workman admitted the fact that he was actually nephew of Sobran Gope. Admitting this fact the concerned workman submitted that during his boyhood he was brought by Sobran Gope and thereafter under his care he was brought up. From the reply of the chargesheet it further transpires that Sobran Gope not only had a daughter but also had a minor son. It is the specified claim of the concerned workman that he was the adopted son of Sobran Gope. He in his W.S. disclosed that Sobran Gope adopted him following Hindu religious rites and customs. In spite of claiming so the concerned workman has failed to produce any cogent evidence to substantiate the fact in issue. From the record it speaks clearly that several opportunities were given to the concerned workman to adduce evidence in order to establish his own claim and to show that order of dismissal passed by the management was unfair and improper and also it violated the principles of natural justice. But in spite of getting opportunity the concerned workman did not move an inch to establish his claim. On the contrary from the reply of the chargesheet given by the concerned workman I find sufficient materials in support of the claim of the management that he was nephew of Sobran Gope who was an employee of the management. Considering record there is also sufficient reason to believe that the concerned workman and Sobran Gope with a view to their personal gain made false declaration before the

management and availed of the opportunity of voluntary retirement scheme operated by the management. Considering all aspects carefully, I therefore hold that the concerned workman has failed to justify his claim lamentably. I find sufficient reason to believe that suppressing the materials fact the concerned workman got his employment. As such I do not find any illegality in dismissing the concerned workman from his service by the management. I also do not find any reason to say that the order of dismissal passed by the management was unfair, improper and also contrary to the principles of natural justice. Accordingly the concerned workman is not entitled to get any relief. In the result, the following Award is rendered :—

“The action of the management of Bhowra (North) Colliery of Bhowra Area-XI of M/s. Bharat Coking Coal Ltd., P.O. Bhowra Dist. Dhanbad in dismissing Shri Pameshwar Gope, D.C.L. from service is justified. Consequently, the concerned workman is not entitled to get any relief.”

B. BISWAS, Presiding Officer
नई दिल्ली, 12 सितम्बर, 2001

का.आ. 2694:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार गुजरात एयरवेज लि. के प्रबंधन के संबंधित नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में, निर्विण्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 1 मुम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-9-2001 को प्राप्त हुआ था।

[सं. एल-11012/57/2000-आईआर (सी-1)]
एस. एस. गुप्ता, अवर सचिव

New Delhi, the 12th September, 2001

S.O. 2694.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1 Mumbai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Gujarat Airways Ltd. and their workman, which was received by the Central Government on 11-9-2001.

[No. L-11012/57/2000-IR(C-I)]
S. S. GUPTA, Under Secy.

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1.
MUMBAI

PRESENT :

S. N. SAUNDANKAR
PRESIDING OFFICER
(IN-CHARGE)

REFERENCE NO. CGIT-1/47 of 2000

Employers in relation to the Management of M/s. Gujarat Airways Limited.

The Managing Director,
M/s. Gujarat Airways Ltd.,
Airport Terminal No. 1,
Opp. A. Terminal,
II Building,
Santacruz, Mumbai-57.

AND
Their Workmen

Shri N.J.S. Rishi,
J-603, A.W.H.O.,
Sector-9,
Ncrul-400706,
Navi Mumbai.

APPEARANCES :

For the Employer.—Mr. Nishil Shah,
Representative.

For the Workmen.—No Appearance.
Mumbai, Dated 27th August, 2001

AWARD

The Government of India, Ministry of Labour, by its Order No. L-11012/57/2000 (C-1), dtd. 29th August, 2000, have referred the following dispute for adjudication to this Tribunal in exercise of powers conferred on it by Clause (d) of Sub-section (1) and sub-section (2A) of Section 10, of the Industrial Disputes Act, 1947.

“Whether the action of the management of M/s. Gujarat Airways Ltd. Mumbai in terminating the services of the workman, Mr. N.J.S. Rishi, w.e.f. 8-10-99 is justified ? If not, to what relief is the workman, entitled ?”

2. On receipt of reference this office issued notice (Exhibit-2) to both the parties i.e.

workman Shri N.J.S. Rishi and the management M/s. Gujarat Airways Ltd., Mumbai. In response to the notice, management's representative Mr. A. M. Lalljee filed application (Exhibit-5), by post. Record shows, notice Exhibit-2 sent to the workman had returned back with endorsement 'unclaimed', therefore notice (Exhibit-8) was sent, however the same was returned unserved. So also the notice (Ex-12) returned back with endorsement "unclaimed". The result is that, notice of reference could not be served on the workman.

3. The management vide application (Ex-11) dtd. 17-7-2001 pointed out that the reference be disposed of as the workman on settling the money claim proceeded abroad and is in employment in a foreign company, and that he does not reside in India vide affidavit filed that effect dtd. 2nd August, 2001 with (Exhibit-15). As stated above, though notice sent many times returned back with endorsement 'unclaimed' and as stated in the affidavit, claim of workman has been settled with the company and that now he is employed with a foreign company and resides there. Consequently reference will have to be disposed of and hence the order :—

ORDER

Reference stands disposed of.

S. N. SAUNDANKAR, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2001

का.आ. 2695.—केन्द्रीय सरकार, संतुष्ट हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (ड) के उपखंड (6) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.आ. 930 दिनांक 23 अप्रैल, 2001 द्वारा दिल्ली दुग्ध योजना के अन्तर्गत दुग्ध आपूर्ति में लगे उद्योग को उक्त अधिनियम के प्रयोजनों के लिये 24 अप्रैल, 2001 से छह माह की कालावधि के लिये लोक उपयोगी सेवा घोषित किया था ;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छह माह की और कालावधि के लिये बढ़ाया जाना अपेक्षित है ;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (ड) के उपखंड (6) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिये 24 अक्टूबर, 2001 से छह माह की कालावधि के लिये लोक उपयोगी सेवा घोषित करती है।

[सं. एस.—11017/7/97—आई.आर. (पी. एल.)]

एच.सी. गुप्ता, अवसर सचिव

New Delhi, the 26th September, 2001

S. O. 2695.—Whereas the Central Government having been satisfied that the public in Delhi so required had, in pursuance of the provisions of sub-clause (vi) of the clause (n) of section 2 the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S. O. No. 930 dated 23-4-2001 the Industry for the supply of milk under the Delhi Milk Scheme to be a public utility service for the purpose of the said Act, for a period of six months from the 24th April, 2001.

And whereas, the Central Government is of opinion that public interest requires the extension of of the said period by a further period of six months ;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a period of six months from the 24th October, 2001.

[No. S-11017/7/97-1R (PL)]
H. C. GUPTA, Under Secy.

